

JANUARY 26, 2006

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FLOOR DEBATE

January 26, 2006 LB 366, 1020

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning. Welcome to the George W. Norris Legislative Chamber for January 26, 2006. Our chaplain of the day is Reverend Paul Rutten from Madonna Rehabilitation Hospital in Lincoln. Would you all rise?

PASTOR RUTTEN: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Father Rutten. And Father Rutten is from Senator Foley's district. So we will call the Ninety-Ninth Legislature, Second Seesion, sixteenth day, to order. Would all senators please chack in.

ASSISTANT CLERK: There's a quorum present, Mr. President.

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We'll move to...are there corrections for the Journal, messages, reports, or announcements?

ASSISTANT CLERK: Mr. President, I have no corrections this morning; do have several reports. LB 1020 has been reported by the Retirement Committee to General File with amendments. I have a series of reports from the Auditor of Public Accounts and the Investment Finance Authority that are on file in the office. Notice of committee hearing from Transportation and Telecommunications Committee. That's all I have at this time. (Legislative Journal pages 469-470.)

PRESIDENT SHEEHY: Thank you. We'll move to the first item on the agenda.

ASSISTANT CLERK: Mr. President, LB 366 was introduced by the Nebraska Retirement Systems Committee. (Read title.) Bill was read for the first time on January 11 of last year, referred to the Retirement Systems Committee. That committee reported the bill to General File with committee amendments attached. (AM0492, Legislative Journal page 670, First Session, 2005.)

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Stuhr, you ere recognized to open.

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SENATOR STUHR: Thank you, Mr. President and members of the body. LB 366 would increase the employee contribution rate for the state employees retirement system to a flat 4.8 percent, and would permit immediate participation for employees in both the state and county retirement plans. Sections 1 and 2 of the bill would permit both state and county employees to immediately participate in both the state and county retirement plans from their date of hire. Currently, employees must wait for a period of 12 months before they are able to participate in their respective retirement systems. This creates problems when employers fail to properly enroll their employees at the 12-month anniversary. Such mistakes have shown up in audit points over the years, resulting from state and counties not timely enrolling their employees. By immediately enrolling employees at their date of hire, when other employment benefits begin, it would help to alleviate such discrepancies. According to LB 366 fiscal note, \$1,594,144 would need to be appropriated from the General Fund each year to implement immediate participation for employees in the state employees retirement plan, because the state would be providing a match for employees during their first year of employment. Additional costs would also be incurred by counties to cover their employer match. Since agencies are appropriated money to cover the full employer contribution match for each employee, whether they have been with the agency for a few months or a few years, it is my understanding that the fiscal note's impact to each state agency would be minimal by adopting this proposal, and there may not be a need for an A bill, since we are actually dealing with 71 different agencies. The judges, the State Patrol, and the school employees' plans each permit immediate participation of their plan members, and to implement immediate participation for both the state and county plans would help to make all of the public retirement plans more uniform with regard to their date of participation. Also, immediate participation would permit an older employee, who may be starting state and county employment later in life, to start contributing immediately rather than have to wait one year before doing so. It should be noted that even with immediate participation, the employee will need to be employed with the state or county at least three years before their employer match amount is vested. Section 3 of the bill

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would increase the employee contribution rate for the state employees retirement system to a flat 4.8 percent rate. Currently for state employees, the employee contribution rate is 4.33 for the first \$19,954 in salary, and 4.8 percent for salary in excess of that amount. The current employer match is 156 percent of the employee's contribution. Since the employee contribution rate would be increased under this proposal, it would also increase the employer contribution rate amount because the 156 percent employer match would cover 4.8 percent of the salary rather than the current two levels of 4.33 and 4.8 percent. LB 366 fiscal note estimates that the additional General Fund requirements for the 4.8 percent increase annually would be \$1,097,966. The 4.8 percent flat rate would permit state employees to save more of their income for retirement, and would also meet the recommendations of the Buck Consultants' benefit adequacy study released in 2000. The report indicated that employees should contribute at least 12 percent of their annual salary for an adequate benefit at retirement. With the employee contribution rate of 4.8 and the employer match rate of 156 percent, a total of 12.29 percent of salary would be contributed by both employee and employer toward the employee's retirement. Currently, public employees in other state pension plans are able to contribute more than the state and county employees. School employees, with their employer and state match, contribute 16.94 percent toward retirement. State Patrol employees, after adjusting for the fact that they do not contribute into Social Security, with their employer and state match contribute 17.06 percent towards retirement. Judge plan members, with their court fees for retirement, contribute 23.86 percent toward retirement. Even with the 4.8 percent flat rate increase, state employees will still only be at 12.29 percent. Also the current two rate levels inequitably favors higher-paid employees who make proportionately more income above the \$19,954 level because they are able to contribute more of their salary towards the 4.8 percent rate. By making both changes to the state and county retirement plans, which include both the cash balance and the defined contribution benefits, it should help to make such plans better able to adequately meet the retirement needs of its employee members, and it should help raise such plans up to a more even footing when compared to the defined benefit plans of the judges, State

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Patrol, and school employees plan. Thank you very much.

PRESIDENT SHEEHY: Thank you, Senator Stuhr. Mr. Clerk, report on AM1958, AM1959.

ASSISTANT CLERK: Mr. President, first of all, we do have committee amendments from the Retirement Committee.

PRESIDENT SHEEHY: Senator Stuhr.

SENATOR STUHR: Thank you, Mr. President and members of the body. I hope that you will listen carefully because we will need to talk about the committee amendment and then the amendment to the committee amendment. The committee amendment would eliminate Sections 1 and 2 of LB 366, which provide for the immediate enrollment and participation upon employment of members in both state employees retirement system and the county employees retirement system. The committee amendment was adopted by the Retirement Committee last year after LB 366 was before the committee on February 19, 2005. Because of some additional information that we have become aware of during the past year, it is our intent to amend this committee amendment and leave the immediate plan participation provision within LB 366 as it was originally introduced. So what we did in the committee amendment was remove the immediate participation, and what we will do with the following amendment that I will speak about briefly is to put that immediate participation back into the bill. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Stuhr. We will now move to item for the record on AM1958 and AM1959.

ASSISTANT CLERK: Mr. President, Senator Stuhr had offered AM1958 and AM1959, but I do have notes from her that she wishes to withdraw both of those.

SENATOR STUHR: Yes, that is correct.

ASSISTANT CLERK: In that case, Mr. President, Senator Stuhr would offer AM1989. (Legislative Journal page 464.)

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PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Stuhr, you're recognized to open on AM1989.

SENATOR STUHR: AM1989 would strike the language contained within the committee amendment, thereby keeping the immediate participation sections within the original bill. And additional changes in AM1989 were made to hermonize the other sections of statute with the immediate plan participation provisions. The operative date is also changed from January 1, 2006, to January 1, 2007. And let me just share with you, one of the reasons for leaving the immediate plan participation within the bill is because the most recent audit report for the state and county retirement plans released by the Auditor of Public Accounts indicates there are a number of discrepancies regarding the initial enrollment of members for both plans. As I stated previously, members are required to be enrolled after 12 months of continuous employment with either the county or state, but both counties...both counties and agencies are failing to properly enroll some of their members in a timely fashion. According to the report and those employee members tested in the audit, about 33 percent for state agencies and 6 percent for county plan members were not enrolled properly, and so that is one of the reeasons. It would be much easier for the agency to obtain an employee's required paperwork and start the retirement deductions at the date of hire and their first paycheck than for the state agencies and the counties to have to remember to do this 12 months later, particularly when you're dealing with large number of employees. NPERS, the agency administering the state and county plans, spenda additional staff time monitoring state and county employees to be sure that they are timely enrolled, so it would also help in that area. It is also a burden, that once an untimely enrollment is discovered, to take out of the employee's paycheck missed retirement contributions in order to get the employee all caught up. Another reeson why I believe that this immediate participation should be left in is because it is somewhat unfair to make an employee wait one year before participating, particularly if the employee is beginning state and county employment later in life and in the employee's career. Finally, the fact--and I believe that this is one of the most important reeasons--that state and county plan members have to wait one year in order to participate is also somewhat

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unfair, especially when members of the school, the judges, and the State Patrol are allowed to immediately join the retirement plan upon being hired. I see both proposals, the 4.8 percent rate and the immediate participation rate, as important steps to help ensure that state and county retirement plans are more in line and uniform with the other plans, other three plans. So I ask for your support of the amendment to the committee amendment, and would certainly be happy to answer any questions. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Stuhr. You've heard the opening of the amendment to the committee amendment, for amendment AM1989. Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President and members of the Legislature. Senator Stuhr, I would like to ask you a question or two.

PRESIDENT SHEEHY: Senator Stuhr, would you yield?

SENATOR STUHR: Yes.

SENATOR CHAMBERS: First of all, I want to say that was one of the most exciting presentations I've heard, and I hung on every word. (Laughter) Probably, I'm the only one. I watch the rest of these clods walking around and studying and paying no attention, as a result of which they're not as informed as they need to be. I don't see in the report from the committee any opposition to the bill whatsoever.

SENATOR STUHR: No, there was not, Senator Chambers. This is a...these issues are something that we've been discussing for a number of years and I think it's very important that we bring these two retirement plans up.

SENATOR CHAMBERS: Have you heard the verse that said woe unto you when all speak well of you? Have you heard that?

SENATOR STUHR: Yes.

SENATOR CHAMBERS: Well, all have spoken well of you, so it's

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probably my job to bring you a little woe. Are you prepared?

SENATOR STUHR: Oh, no. (Laugh)

SENATOR CHAMBERS: You...what?

SENATOR STUHR: Yes,...

SENATOR CHAMBERS: Senator Stuhr, I've given...

SENATOR STUHR: ...I'm prepared. (Laugh)

SENATOR CHAMBERS: I've given other people the opportunity to express a wish or a desire as to how I should conduct myself with reference to them. How would you like me to conduct myself with reference to you this morning? What would you rather I do more than anything else?

SENATOR STUHR: Probably just vote for the amendments and move the bill on. But if you'd like to ask some questions I'd be happy to answer those.

SENATOR CHAMBERS: But what is it you prefer?

SENATOR STUHR: Well, I would prefer that we just move on.

SENATOR CHAMBERS: Ask and it shall be given you, my child.

SENATOR STUHR: (Laugh) Okay.

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Raikes.

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. Senator Stuhr, if I could ask you a couple of questions about this?

PRESIDENT SHEEHY: Senator Stuhr, would you yield?

SENATOR STUHR: Yes.

SENATOR RAIKES: As I understand what...and this amendment may

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not be the right place for these questions, and I apologize if not. But, generally, what you're talking about here is a rate increase by...in the contributions by employees for the state and county, and because of that rate increase...contribution increase you're going to get an increase in the state contribution, because you multiply whatever they, the employee, contributes by 156 percent. And then you're also going to make the employees at those two levels eligible immediately upon hire, rather than waiting 12 months. Is that...

SENATOR STUHR: That's correct.

SENATOR RAIKES: ...the essence of...the fiscal note on this is about \$3 million? Is that correct?

SENATOR STUHR: Yes, if you would look at the fiscal note, the General Fund is \$1,594,144. Now, it's my understanding that is divided by 71 agencies.

SENATOR RAIKES: So the division by 71 agencies results in what?

SENATOR STUHR: I actually have not divided that out, but...

SENATOR RAIKES: Well, I'm not asking you for the numerical answer,...

SENATOR STUHR: ...after talking to...

SENATOR RAIKES: ...but what you're suggesting is that rather than there being any more money appropriated to these agencies to cover this additional expense, that these agencies will be expected to cover this additional obligation out of what they're already appropriated. Is that what I heard you say?

SENATOR STUHR: Yes, some of them already have set aside in their agencies to cover this amount, and this increase from 4.33 to 4.8 only applies to the state agencies.

SENATOR RAIKES: Okay. Now, on your sheet, you also show county. And there's no change in the contribution rate for county employees then?

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SENATOR STUHR: Yes, there will be a change, but of course that will need to come from the county budgets.

SENATOR RAIKES: Right. So the fiscal note...that would be a local fiscal impact.

SENATOR STUHR: Yes, that's correct.

SENATOR RAIKES: Another...now you mentioned a couple of reasons for doing this. One of them, I think, is that there have...the auditors have shown that there have been errors in adding people or accepting people for retirement benefits. Apparently, if you don't do it right away and you wait a year, then there's a tendency to forget that, oh, one year is up so this person needs to be allowed to contribute. Is that roughly what happens?

SENATOR STUHR: Yes, that's true, Senator Raikes. The state employees, roughly, we have over 14,000 state employees, and so you can imagine how difficult that is when there are different time lines when people are hired and then they have to wait 12 months and then they're expected to pick up exactly in that 12 months, start that retirement. So the other three plans all have immediate participation and we always work towards trying to have as much uniformity in the five plans as possible. So this was one area that would certainly help if we had immediate...

PRESIDENT SHEEHY: One minute.

SENATOR STUHR: ...participation.

SENATOR RAIKES: Well, that's the other thing I wanted to question you a little bit about. You mentioned the second main reason was comparability between the plans. And if I look at the second page of your handout, where you've got school, State Patrol, judges, state, and county, as near as I can tell, State Patrol is far and away the highest in, on line 3 there, amounts to be contributed. That's more than twice as high as what state is, even after this change. So do we look forward to several more changes in order to make this comparable, or is that more

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comparable than what it appears?

SENATOR STUHR: Let me just comment on the State Patrol, is the State Patrol does not include Social Security. They do not have Social Security in their plans.

PRESIDENT SHEEHY: Time, Senator Raikes.

SENATOR RAIKES: Okay. Thank you.

PRESIDENT SHEEHY: Senator Wehrbein.

SENATOR WEHRBEIN: Mr. President, members of the Legislature, I'd like to ask Senator Stuhr some questions, please.

PRESIDENT SHEEHY: Senator Stuhr, would you yield?

SENATOR STUHR: Yes.

SENATOR WEHRBEIN: Senator Stuhr, do you know the rationale behind waiting for...waiting a year? I mean, I know this has been there for probably a long, long time, and what the rationale was for county and state employees to wait a year for investment...or, not...?

SENATOR STUHR: You know, I don't, Senator Wehrbein. I really don't. I just know, you know, the other three plans have immediate.

SENATOR WEHRBEIN: You didn't discuss that. I've always assumed, knowing that that was the case, that maybe with turnover, people are going to be...maybe not less a year, especially when you're a tentative employee, six months trial, that type of thing. They didn't want to take the money out when they might not last even the year. Because I assume now, under this scenario, once that money...starting to take it out and they don't...and they're not going to be vested for, I think it's two years, right?

SENATOR STUHR: Three years.

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SENATOR WEHRBEIN: Three?

SENATOR STUHR: Three years.

SENATOR WEHRBEIN: That that money will...they will lose that money. You haven't changed that forfeiture, have you?

SENATOR STUHR: No. No.

SENATOR WEHRBEIN: So actually, they...they're going to lose more money if they do not stay employed with the state or the county under this scenerio, because that will be returned. They're not going to be vested.

SENATOR STUHR: Right. Yes, that's true.

SENATOR WEHRBEIN: Is that correct?

SENATOR STUHR: Yes, that is true. I think mainly we are trying to, I guess, cut down on the time of, you know, trying to pick up these people, since there are 14,000, over 14,000 state employees. Then sometimes if they missed that 12-month, you know, exactly, then they would have to take out double in their next paycheck, and it...we had no opposition, you know, to...

SENATOR WEHRBEIN: Well, I notice the counties didn't oppose this either,...

SENATOR STUHR: No, they did not.

SENATOR WEHRBEIN: ...even though it's going to increase their payments.

SENATOR STUHR: That's right.

SENATOR WEHRBEIN: Now, will the next step be to reduce that vestiture time, you suppose?

SENATOR STUHR: I don't know, Senator Wehrbein.

SENATOR WEHRBEIN: I mean I...

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SENATOR STUHN: We have not talked about it...about that.

SENATOR WEHRBEIN: Well, I wasn't aware that there was a longstanding effort to shorten the time period before...in other words, going immediately to withdrawal or becoming part of the retirement plan, so I wondered if that, the vestiture, may be next, because I assume that there's perception out there that some of these things are unfair. It's good...if you're going to stay with the state, the sooner you got involved with retirement the better. If you happen to be moving around, which several do, I'm aware of, especially in some departments, you're going to lose more because you will not have stayed the required three years. And I'm just trying to understand it.

SENATOR STUHN: Right. Right.

SENATOR WEHRBEIN: Is that accurate?

SENATOR STUHN: Yes, that's accurate.

SENATOR WEHRBEIN: Thank you.

PRESIDENT BERRY: Senator Stuthman.

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. I would like to engage in a little bit discussion with Senator Stuhr, if I may, please.

PRESIDENT BERRY: Senator Stuhr.

SENATOR STUHN: Yes.

SENATOR STUTHMAN: Senator Stuhr, in this amendment, it has that both counties and agencies are failing to properly enroll. Would you say which one of them would probably be the ones that are not getting it done? Is it the counties or is it the state agencies?

SENATOR STUHN: Well, we have a larger number of state employees, and so, of course, your percentage would certainly be

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higher in that area. I think there...you know, when the Auditor does some spot-checking, they have found that there are, you know, counties that are failing to catch that time frame also.

SENATOR STUTHMAN: Is that because of the workload of doing it and the counties, the officials that are doing it, you know, just probably don't get to it? Is that...would that be the case?

SENATOR STUHR: Well, it's just another thing. You know, we think it would be just much easier that upon...that they did this upon immediate...when they start employment, then they fill that out and then no one has to be checking that exact data 12 months later that, okay, now you can begin your retirement.

SENATOR STUTHMAN: And I think that's a very true because when an individual is employed, if they could go through that process right when it's taking place, because then they would know, you know, what is being contributed, what is happening and what is taking place, and then that could be put in the back of their mind. Also, I think, you know, the one that is employed, you know, he don't realize, you know, if he works there a year, he probably don't realize when he has worked a year to start with, first.

SENATOR STUHR: That's right.

SENATOR STUTHMAN: And then second, you know, the employer in the county or the agency has to, you know, check everything every day or every week as to, is...has John worked here a year, has Bill worked here, is Mary next week? And I think if it could be...if it could be handled right at the employment time, that would make it so much better, in my opinion, because it would be all taken care of. The only problem that I see with it is, you know, are these people going to have a...do they have an intention to stay there for a length of time, or are they going to be coming and going? And if they contribute a little bit, you know, is it...is it worthwhile? So I think...I think we're going in the right direction. I like to see things that are very simple, taken care of when you're working with this and then put it behind you and out of mind. So I truly support

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this, so I'll return the balance of my time back to the Chair.

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Further discussion on AM1989? Seeing none, Senator Stuhr, you're recognized to close.

SENATOR STUHR: Thank you, Mr. President and members of the body. What this amendment does is strike the language contained in the committee amendment, thereby keeping the immediate participation; also, harmonize other sections of the statute with the immediate plan participation; and changes the operative date. So I ask for your support on this amendment. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Stuhr. The question before the body is, shall amendment to committee amendment AM1989 be adopted? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk.

ASSISTANT CLERK: 30 ayes, 0 nays on the adoption of Senator Stuhr's amendment.

PRESIDENT SHEEHY: Amendment AM1989 is adopted. We'll now move back to the AM0492 committee amendment, as amended. The floor is open for discussion. Seeing no lights, Senator Stuhr, you're recognized to close on committee amendment AM0492.

SENATOR STUHR: I would ask for your support for this amendment. Actually, the previous amendment was...struck some of this amendment, so we just...we ask for your support for this amendment. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Stuhr. You've heard the closing on AM0492. The question, shall...for the body, shall AM0492 be adopted? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk.

ASSISTANT CLERK: 34 ayes, 0 nays on the adoption of the amendment, Mr. President.

PRESIDENT SHEEHY: AM0492 is adopted.

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ASSISTANT CLERK: Mr. President, I have nothing further on the bill.

PRESIDENT SHEEHY: Further discussion on LB 366? No lights. Senator Stuhr, you're recognized to close.

SENATOR STUHR: Thank you, Mr. President and members of the body. What LB 366 does is increases the employee contribution rate for the state employees to a flat 4.8 percent, and also would permit immediate participation for employees in the state and county retirement plans. And as I said previously what we are trying to do is harmonize all five of our systems, and that would put the immediate participation in line with the other three systems of the school, the Patrol, and the judges plan; and also bring the contribution rate from 4.33 to a 4.8 participation rate. So I ask for your support, and have appreciated the discussion that has taken place. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Stuhr. You've heard the closing on LB 366. The question before the body is, shall LB 366 advance to E & R? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk.

ASSISTANT CLERK: 31 ayes, 0 nays on the motion to advance the bill, Mr. President.

PRESIDENT SHEEHY: LB 366 is advanced. Mr. Clerk, do you have items for the record?

ASSISTANT CLERK: Mr. President, I do. I have notice of committee hearings from the Appropriations Committee. I have a report of registered lobbyists for the current week. Your Committee on Enrollment and Review reports LB 875 and LB 32 to Select File with amendments, and LB 508 to Select File. That's all that I have at this time. (Legislative Journal pages 471-473.)

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We'll move to the next item on the agenda.

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ASSISTANT CLERK: Mr. President, the next bill is LB 529, which is introduced by Senator Beutler. (Read title.)

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Beutler, you're recognized to open on LB 529.

SENATOR BEUTLER: Mr. Lieutenant Governor, members of the Legislature, LB 529 is a bill that deals with, essentially, the clerks of the district court, who are currently county employees. It is not a new idea or a new bill. It's an idea that has been worked on for almost a decade, improved and improved over time. It persists because it is an essential component of the state judicial system, which is not currently really altogether a part of the system. And the main thrust of this bill is to relieve the county of the expenses of the salaries and the benefits of the employees of the clerk of the district court to allow judges, the local judges, to appoint the clerks of the district court, and to basically bring them into the system in a way that allows a very updated, modern methodology with the use of computers to more effectively and efficiently manage the overall system. And we'll go back to all those ideas as we get into this. I want to thank the Judiciary Committee for working so hard on this. Senator Bourne and the committee brought the bill out again. This bill was brought out of Judiciary a few years ago by Senator Brashear and his committee at that time. It was approved through three stages of debate by the entire Legislature, and then at that point in time the revenues went south on us and it was vetoed by the Governor for lack of revenues. As you all know, revenues are good now. Revenues are probably in the best condition that they'll be in for a period of time. If there was ever a time, if there was ever a period or a moment in time when we can make a change that I hope I can show you will have enormously beneficial long-term effects, now is the time. And the long-term beneficial effects result from the fact that new technologies will be able to be brought into the system in an efficient way once the clerks of the district court are like the clerks of the county court, and all are state employees who respond to the local judges and to the central administration of the court system. Let me just mention the process here shortly. I'm introducing the bill. There are committee amendments, and then I have an amendment to

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the committee amendments which will really be the point of discussion. The amendment to the committee amendments incorporates all of the committee amendments but one, and we'll talk about that, but it...the amendment to the committee amendments is the way it is for two reasons, because we've spent a year in further negotiations with all interested parties willing to talk and have come up with some additional small changes that make things better for primarily clerks here and there around the state, and so there are a number of these changes, and with the new changes in the Bill Drafting Office, they like to put a clean white copy before you that actually contains everything that was in the green copy, all the committee amendments, and all of the updated amendments. So we will move in that sequence. Let me give you the political landscape, as I understand it. This bill is strongly supported by your Supreme Court, who has the responsibility for administering the entire judicial system in the state of Nebraska. They are of the opinions, by and large, that I will be expressing to you today. Probably most of the good ideas in this bill come from them. The district court judges who work most closely with the clerks of the district court are in favor of this bill. The clerks of the district court themselves voted, by majority vote, to support the bill. That doesn't mean that there aren't a number of district...of clerks of the district courts out there who are not supportive of the bill. I hope you will understand that since the clerks of the district court are currently county employees, with no uniform systems applying to them, that there are 93 different salary levels out there, 93 different sets of office hours, 93 different retirement plans, 93 different health plans. They're all over the board, and probably part of the equity and benefit of bringing them into the state system, if nothing else, is the matter of fairness and equity between people who are doing essentially...effectively...are doing the same kind of work in one kind of county and in all of the counties, but being compensated in very different ways. And also, it brings their compensation levels into some kind of parity and comparability with the employees of the county court system. Looking at these two groups of people overall, I hope you would agree that there is a lot of sense, because they essentially do the same thing and have similar kinds of structures, that all of their salary

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and benefit packages should be in some rough relationship. I have not heard adversely from any lawyer on this proposition. I think, by and large, they understand the management function and responsibility that the court system has, and I think they are now comfortable. In the early days, many years ago, there was bar opposition to this bill. I don't know how they feel about court fees still today, but I'm pretty sure they're comfortable with the mechanics of the bill, with the structure of the bill, with what the bill proposes in all of its substantive elements. And I have heard no opposition from the county judges. So we have one central source of opposition, and that is NACO, the Association of County Officials. They have had a very organized campaign to get all of the counties to send all of your letters, basically talking about, one, unfunded mandates and, two, local control. And I will eventually address those items directly because I think that neither are valid arguments. And I'm very anxious today to hear what those arguments are, because I'm hoping and I believe that I could convince you that what this bill proposes is a far, far better place to be than where we are. With respect to the unfunded mandate argument, it's curious that that argument should be made, because the state is picking up the costs of the salaries and the benefits of the clerks of the district court and all of their employees. And we can demonstrate...

PRESIDENT SHEEHY: One minute.

SENATOR BEUTLER: ...that, on the whole, and we, before the end of this process, will be able to demonstrate that in every instance the counties are relieved of expenses, not mandated into additional expenses. The counties...this is property tax relief, on the whole, at the level of about \$6 million. Additionally, to be sure that the counties gain financially out of this, there's \$1 million being distributed to the counties for indigent defense costs. So the counties will financially benefit and I think I can prove that to you. I have no more time at this moment, and I haven't really gotten into a description of the bill at all and I will...

PRESIDENT SHEEHY: Time, Senator Beutler.

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SENATOR BEUTLER: ...atart that at my earliest opportunity.
Thank you, Mr. Lieutenant Governor.

PRESIDENT SHEEHY: Thank you, Senator Beutler. Mr. Clerk, do
you have an amendment to LB 529?

ASSISTANT CLERK: Mr. President, there are committee amendments
from the Judiciary Committee. (AM0215, Legislative Journal
page 648, First Session, 2005.)

PRESIDENT SHEEHY: Senator Bourne, you're recognized to open on
Judiciary Committee AM0215.

SENATOR BOURNE: Thank you, Mr. President and members. The
committee amendment to LB 529 makes the following changes to the
green copy of the bill. It inserts a new Section 33 to change
the district court fee for a writ of execution, restitution,
garnishment, attachment, and examination in aid of execution
from \$5 to \$10. It clarifies that until the position of the
district court clerk is a state employee position, the
appointment of such person shall be subject to the approval of
the appropriate county board. In counties having a population
of 200,000 or more, child support referees and their staffs are
not included in the transfer from county to state employment.
In counties having a population of 400,000 or more, conciliation
court employees and their staffs, and court administrators and
their staffs are not included in the transfer. The amendment
further clarifies that county employees who participated in the
Nebraska county retirement system prior to January 1, 2003, and
elected not to participate in the cash balance benefit option,
may participate in the defined contribution benefit option of
the state employees retirement system. AM0215 amends Section 55
of the bill that appropriates \$25,000 for the State Court
Administrator to conduct a study of the salaries of the district
court clerks, the county court clerks, and the employees of the
district court. The amendment would allow the court to do a
comparison study of the benefits as well. This amendment also
makes other technical changes. I would urge the body to adopt
the committee amendments to LB 529. Senator Beutler is going to
propose the next amendment. I guess it's AM1795. This
amendment incorporates the committee amendments that I have just

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reed, plus some additional amendments that I'm certain he will explain. With that, if Senator Beutler would like the balance of my time, I'd yield it to him.

PRESIDENT SHEEHY: Thank you, Senator Bourne. Mr. Clerk, do you have an amendment to...oh. Senator Beutler.

SENATOR BEUTLER: Senator Bourne, thank you for the time. Let me just take a short period of that time now to explain what the difference is between the committee amendment and the amendment that will come before you shortly. The committee amendment will be incorporated into the next amendment, with the exception of one item, which is...which Senator Bourne has no problem with because we have no disagreement on the substance of the matter; only a discussion about how things should be worded. And in the committee amendment, with respect to participation by transferred employees into the state employment system, the committee amendment said that they shall have the right to participate. The amendment before you will say they may participate. There is no difference in the intention of either myself, as sponsor of the bill, or the Judiciary Committee. The intention is, and I think the language suffices, to indicate that employees coming in from the various county systems into the state system, they can choose to keep their retirement money separate, or they can choose to participate in the state system, bring those values into the state system. We're leaving it entirely to the employee, and every employee has the right to participate in the state system. So I think everybody is together on that particular item. And with that, I'll leave off until I have a few more minutes in a solid block of time to talk about the amendment to the committee amendment.

PRESIDENT SHEEHY: Thank you, Senator Beutler. Mr. Clerk.

ASSISTANT CLERK: Mr. President, Senator Beutler would offer an amendment to the committee amendment. This is AM1795. (Legislative Journal page 291.)

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Beutler, you're recognized to the amendment on the committee amendment, AM1795.

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SENATOR BEUTLER: Mr. Lieutenant Governor and members of the Legislature, let me start taking you through the bill. I indicated to you that, by virtue of picking up the personnel costs of the clerks of the district court employees that property tax relief, if the counties choose to have it be property tax relief, in the amount of about \$6 million will come about; plus, the counties will be helped in terms of legitimate...or in terms of indigent defense money. But the reason that the counties have this expense relief is because, as I indicated earlier, we do take into the state system the clerks themselves and all of the employees of the clerk of the district court offices. And so their salaries and all of their benefits will be payments from the state level. It will be state General Funds and also...well, they will be entirely state General Funds, but part of that General Fund expense is offset by \$2 in court fees. In making this transition, no clerk and no employee of the clerk's office will have their salary reduced. All will have immediate access to the state health and retirement options. Many, by virtue of the change, will have better benefits; a few, frankly, may have benefits that are not quite so good. Again, understand that we're dealing with 93 different situations. But as I indicated to you before, I think that equity will be well-served by treating all of the employees of the clerks of the district court offices across the state in some more uniform way in terms of salary and benefits because, in fact, they are doing the same work, just in different geographic locations. Equity and fairness will also be served by treating the employees of the clerks of the district court similar to the employees of the clerks of the county court. Remember again the anomaly of this system. The clerks and the employees of the clerks of the county courts are all state employees right now. So they are under a unified pay system, a pay...a scaled pay system, and it would make a lot of sense, because they do the same kind of work as the clerks of the district court, to have some parity and some reasonable relationship between those two sets of employees. The transition of the offices from county employment to the state system would be done in three stages. On January 15 of next year, Districts 8, 10, 11, and 12, generally speaking, starting at the western end of the state, would come on to the state

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system. Then January 1, 2008, one year later, Districts 1, 3, 5, 6, 7, and 9 would come on to the state system. And January 1, 2009, the last two districts, Omaha and Sarpy County, would come on to the state system. The transition is broken up mainly because the Supreme Court, the local judges, everybody wants to be sure that it's done in a slower sort of way so that they can handle the transition, so things are done right, so that if they start running into any problems they'll have a chance to fix them. And also, it spreads out the financial cost so that it comes on to the system in stages. The clerk of the district court, himself or herself, also becomes a state employee and, in the future, will be appointed by the local judges. So, in a sense, there is a shift in local control and it goes from election of the clerk of the district court and some sort of relationship with the county level officials, to appointment and a relationship to the local judges who do the appointing. So I think it's not correct, basically, to say that there's any loss of local control. The control is still local, but the control shifts from a county board who has no responsibility for the output of the office, to the judges who are intimately and dynamically affected by how their district court filing system works since it relates to their very workload. The clerks of the district court would go through the 2006 elections, so they will all go through the political process this year, and then whoever wins is deemed appointed at that point in time when their office comes on to the state system. And remember, that may be one of three times since they transition into the system at three different points in time. They then continue in that job indefinitely, subject only to the general personnel rules that are applicable to all employees of the Supreme Court. This, I think, will do something that we cry out for and that the public cries out for time after time--make government more like a business. We can't always make government more like a business. Those of us who have been here awhile, all of us, understand that that's not possible in many situations, but sometimes it is. Sometimes it's very possible. Here we have, in the middle of a kind of corporate organization, a middle-level manager who takes care of filings, who, if you look at it in corporate terms, is not subject to the corporate management leadership, but is subject to a vote of the stockholders. Can you imagine that--a corporation that decided

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that they would elect or that they themselves would appoint a middle-level manager who's responsible for no policy but only for managerial skills? That's essentially what we have. And what the Supreme Court wants to do, what I would advocate to you, is setting up a more businesslike model, and that model is, we hold accountable the local judges, we hold accountable the Supreme Court for the operation of the system. Ironically, even though they're county employees, when something goes bad in the district court system, the clerk's office, and something does go back almost every year in a few of them, people come running to the Court Administrator's Office to fix it, and they don't have the power to fix it.

PRESIDENT SHEEHY: One minute.

SENATOR BEUTLER: They have suggestions and they have moral persuasion, but they can't legally fix it. And so what is being suggested to you is that we use the business model, and for those people we hold accountable we also give them the power to make the decisions about who a good manager would be for the filing system, who a good person would be to be a clerk of the district court. Let 100 people apply, sort through it, let the judges pick out the most qualified, let them be appointed. I would submit to you that, by and large, in the long run you're going to have a much better...a person much more able to do and to be a good manager than you would with the relatively haphazard policy of having them elected.

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Beutler. You've heard the opening on the amendment to committee amendment, AM1795. Senator Cudaback, followed by Senator Brown and Senator Smith. Senator Cudaback.

SENATOR CUDABACK: (Microphone malfunction)...Governor, members, I guess this is one of those issues that you probably won't hear a lot about the amendment or the committee amendments or the bill itself as a separate issue, but it's going to be a combined issue. It's one of those combined issues that the average person, the average person, probably will not even know what we're talking about as long as the clerks and the district, county, whatever, are doing their job and you get whatever you

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want done, done. I'm going to get my two cents worth in early here and sit back and listen. I've been around the circle on this. I've been involved...I was on the county board, as many of you know, 12 years; city boards and whatever. This issue has been around. Does it need to be done? Probably not. It's going to boil down to dollars. But as I'm sitting here listening to Senator Beutler, and I've heard several times before, and I've heard from the district courts, I've heard from judges, I may be coming around maybe to saying, hey, maybe this might not be a bad idea after all. Some of you might not agree with that, but I may be coming full circle on this one here. I'm going to listen. My mind can be persuaded either way here, as many of you know. Will this come down to dollars? It might, it just might. Can we afford it? Can the state afford to do it? I know the counties right now, it costs many dollars to operate the district court, as we all know, but does it need to be done? Probably not. But should it be done? Will the average person care? No. The average person does not even know probably what we're talking about here on this issue. Some issues are black and white. This one is not. And will they care in the future? Probably not. They probably won't care. And as long as we're doing our job, that's what we're here for. We're going to listen, we're going to learn, and we're going to hear many people talk on this issue, unless I'm wrong. This is what you call a very, very debatable issue, and it will be debated, and maybe not solved. It hasn't been in the last few years, but I may be coming full circle on this one here, so right now I'm leaning about maybe 50.1 percent toward Senator Beutler and we're going to listen here. We're going to learn. But anyway, I do know one thing. The district courts are doing a great job now, so some say if it isn't broken don't fix it. But has time come? I'm going to learn here. So I'm going to listen. So if you want my vote you're going to have to really be persuasive here, but I just might be there. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Cudaback. Senator Brown.

SENATOR BROWN: Thank you, Mr. President and members. Well, I am 99 percent in Senator Beutler's corner on this bill, and I am 99 percent in Senator Beutler's corner because I believe that we have a constitutional issue here. You cannot require an entity

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to be responsible for an error and give them no way to exercise that responsibility, and that's what we've done. So I believe that if we don't do what Senator Beutler is proposing, then we should look at relieving the Supreme Court of any responsibility in this area. I would like to ask Senator Beutler a question.

PRESIDENT SHEEHY: Senator Beutler, would you yield?

SENATOR BEUTLER: Sure.

SENATOR BROWN: Senator Beutler, you referred in your remarks about the amendment to times when there are problems and that the Supreme Court is asked to step in. Can you talk about some specifics? What are the kinds of things that might be a problem that would occur under the current system?

SENATOR BEUTLER: Well, I think there are a variety of different kinds of problems. Some of them have to do with basic bookkeeping, keeping track of fees and balancing books. Others have to do with correct filings or not doing filings at all and letting them pile up.

SENATOR BROWN: What would be...

SENATOR BEUTLER: So...

SENATOR BROWN: ...what would be the liability to...either to the county or to the state for not doing these things? What is the impact on citizens of these things not happening?

SENATOR BEUTLER: Well, the impact on citizens could be quite acute, of course, if a critical filing or a critical document is lost or permanently misplaced. Exactly how that would work would depend a lot on the circumstances and who did what when and whether the situation was redeemable. But certainly it's the kind of thing you would not want to happen to any citizen.

SENATOR BROWN: In the instances that you referenced, and you referenced then them coming to the Supreme Court, to the Court Administrator, seeking help in remedying the situation. Have there been instances where the court has stepped in, and on

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whose dollar has that activity taken place?

SENATOR BEUTLER: Well, I think...and I can't speak about every situation because I don't pretend to know them all, and certainly they haven't been related to me in any great detail other than the general description of what types of things tend to happen. But it's my understanding that, generally speaking, it's on the state's dollar. They don't try to bill the counties for any of their own services in helping to repair the situation. I don't know what the situation may have been in terms of county liability for various errors or omissions. And I don't...you know, I don't want to say...I don't want to get to a point of saying that the whole current system is terrible. It's not. It's like any system where you have good people and you have a minority who are not so good.

PRESIDENT SHEEHY: One minute.

SENATOR BEUTLER: I would just argue strenuously that on average you're going to have better people if the judges appoint, and most certainly you'll have an easier time getting rid of the bad apple when that does...that mistake is made.

SENATOR BROWN: Well, and I was not...and by posing these questions, I was not suggesting that there is a pervasive problem.

SENATOR BEUTLER: Yeah.

SENATOR BROWN: I was suggesting that if there is a problem, the entity that we expect to remedy it has no control over the situation, and I think that that poses a constitutional issue that our statutes are not in sync with what our constitution has said the entity that is ultimately responsible. And I think that that is very related to what you said about business models, but I think it's even stronger than that because of what we...the statement we have made in the constitution. And so I believe that if we do not choose to do this, then we need to...

PRESIDENT SHEEHY: Time, Senator Brown.

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SENATOR BROWN: ...look at changing the constitution. Thank you.

PRESIDENT SHEEHY: Senator Smith, followed by Senator Flood, Senator Chambers, Senator Dwite Pedersen. Senator Smith.

SENATOR SMITH: Thank you, Mr. President and members. I rise with a few questions for Senator Beutler, if he would yield.

PRESIDENT SHEEHY: Senator Beutler.

SENATOR SMITH: Senator Beutler, I just want to make sure that I understand appropriately that there would be an increase of \$5 per filing with these court records. Is that accurate?

SENATOR BEUTLER: Yes.

SENATOR SMITH: And that would bring the cost to how much?

SENATOR BEUTLER: That would bring the cost of what, Senator, to how much?

SENATOR SMITH: The total filing fee, because this is an increase of \$5, right?

SENATOR BEUTLER: Right. And let me get for you a list of...

SENATOR SMITH: Okay.

SENATOR BEUTLER: ...of the filing fees that have not been entirely updated yet. But on average, the filing fees in Nebraska, even with this increase, are still very average. I mean it's not...it's not getting us up, among the Midwest, among the highest, by any means. It's a very average filing fee.

SENATOR SMITH: Okay. I'll look forward to that information. But basically, the state would be taking over what is currently a locally provided service at local cost. Is that accurate?

SENATOR BEUTLER: That's most...that's mostly accurate, yes.

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SENATOR SMITH: Okay. Thank you.

SENATOR BEUTLER: The state...can I talk a little bit on your time? It would...

SENATOR SMITH: Oh, not much, please.

SENATOR BEUTLER: Okay. Well, then let me make some...

SENATOR SMITH: Perhaps I'll have some time at the end of my remarks, and I'd be happy...

SENATOR BEUTLER: Okay.

SENATOR SMITH: ...to yield that to you, but perhaps not (laugh) either, but I'd push my button again. I rise with serious concern. At the same time, I have an appreciation for what Senator Beutler is attempting to do. I truly believe that he's looking for good public policy. I have concerns, number one, that we're raising fees and, at the same time, trying to say that we're being more efficient. And I've also become a little wary of promises of efficiency when truly costs are increased. I think this is an example of an increase in state spending, basically, you know, taking over what is now a locally functioning service or certainly a local function in its entirety. I struggle to find a laundry list of bad examples of the current process. Perhaps I just haven't been paying enough attention, but I do know that in western Nebraska we had a change in the clerk of the district court's office 10 or 12 years ago, and it was at the ballot box. There were concerns that were raised by various officials and various interested parties, and there was a change as a result of the election. It worked. I have serious concerns about raising this fee because it's an increase in fees. And perhaps I can be convinced otherwise. I doubt it. But I am very, very cautious when I hear promises of efficiencies when there's a fee increase that is necessary, and in light of a surplus of General Fund revenue as well. So I'm going to listen to the debate, by all means, but certainly I'm going to be a tough one to convince that LB 529 is actually a step in the right direction when we look at all of the factors, be they fiscal primarily and public policy

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in general. Thank you, Mr. President, or I would yield the balance of my time to Senator Beutler, if he so chooses to use it.

PRESIDENT SHEEHY: You have one minute, Senator Beutler.

SENATOR BEUTLER: Senator Smith, thank you, but with just one minute, I think I'll wait for a larger block of time. Thank you.

PRESIDENT SHEEHY: Do you have an item for the record, Mr. Clerk?

ASSISTANT CLERK: Mr. President, an announcement: The public Health Committee will meet in Executive Session in Room 2022 now; that's Health Committee in 2022 now.

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We'll have Senator Flood, followed by Senator Chambers, then followed by Senator Don Pederson. Senator Flood.

SENATOR FLOOD: Governor, members, I rise to discuss the bill, obviously, but...and I also voted it out of committee, in the Judiciary Committee, for several reasons. This LB 529 presents a very interesting situation. Just look who supports it and who doesn't. In Madison County, my district court clerk says, yes, I support LB 529. The Madison County Commissioners adamantly say, no, they do not support LB 529. And from what I've heard in the committee and here on the floor so far, it seems to me that the major issue that Senator Beutler is pushing is the management of district court clerks by the Supreme Court, and that is a valuable issue. That is a recognizable issue if you ask district judges across Nebraska. And I visited with some of the district judges in my judicial district, and the judicial district to the south of Madison County, and I said, how big of a problem is it in these district court clerk offices with following the rules of the Supreme Court? And a judge here and a judge there on the district court level will say, you know, for the most part, out of 93 counties, 90 of them probably get it and do a great job, but there's 3, like there's 3 in any group, that don't roll with the punches, that doesn't follow the

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mandates of the Supreme Court, that don't work in cooperation with what...and with the direction of the Supreme Court. So my question is this, and I want to have an extended discussion with Senator Beutler here in a moment, but is it the management of district court clerks that is our primary concern, or is it this idea of uniformity across the state--being state employees and working within the state system? I think it's the management, and for that reason I have introduced an amendment, it's AN2019, it should be on the computer, and will be opening on that in a little bit. But before we do that, I wanted to...I wanted to have it on your computer so you could look at it. Basically, what my amendment and the concept does is it allows the court to set up guidelines and rules and a certification process for district court clerks, just like a sheriff in any county. The sheriff is elected by the people of Madison County, or York County, but the sheriff has to maintain an active law enforcement certificate. Now, if the sheriff does something that violates the code or the oath that he or she takes as a law enforcement officer, there's a commission that will revoke that certificate and, subsequently, that individual that is a sheriff can no longer serve as a sheriff because he or she has violated the rules of, you know,...or, the oath that law enforcement officers take. In this case here, we essentially set up a system where district court clerks participate and complete a training course, and then there are rules that are adopted by the Supreme Court as to how the offices are governed. And if the district court clerk isn't following with the rules of the Supreme Court, like implementing e-filing or whatever the rule may be, the court can then make a motion to revoke the certificate of a district court clerk. And if the district court clerk fails to show cause as to why they violated the rule, or reason that they are acting outside of the rules, then the court can revoke that certificate and essentially the district court clerk no longer has the ability to serve in the role that he or she was elected to. This amendment, I think, draws a straight line between where we're at and where the court wants us to be. It also draws the line without taking on a bunch of new state employees. Now, Senator Beutler spent more than, you know, almost ten years on his bill, and it's hard for me to say that this amendment is in perfect shape when it's on your computer, because he certainly refined his bill a lot

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better than anything this amendment looks like. But I think it's worth having the discussion. And I don't know how much time I have left, Mr. President, but...

PRESIDENT SHEEHY: Just one minute.

SENATOR FLOOD: ...I guess I would offer Senator Beutler an opportunity maybe to comment on my discussion. And more importantly, Senator Beutler, I'm interested in your primary mission. Is it to give the Supreme Court a thumb they can place over district court clerks to make sure that everyone is in conformity with the rules of the Supreme Court?

PRESIDENT SHEEHY: Senator Beutler, about 40 seconds.

SENATOR BEUTLER: Mr. Lieutenant Governor. Again, Senator Flood, I'd be delighted to respond to this, but let me do it when I have a little larger block of time, so that we can have a more extended discussion. Thank you.

SENATOR FLOOD: (Microphone malfunction)...Lieutenant Governor.

PRESIDENT SHEEHY: Thank you. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, if this bill has a fee increase in it, a court filing fee of any kind, I'm going to do all I can to derail it. The Supreme Court has come to me time, after time, after time, and I have said no fee increases, but I have yielded. And I made it clear to the Chief Justice, I'm not going for any more court costs or court filing fee increases because the court system should not run on fees. There should be a General Fund appropriation. Those fees that have been raised in the past were inappropriate, improper, and I plead guilty to having helped do something that by every principle I believe in with reference to how the court ought to operate I violated, not by mistake, not through inadvertence. My eyes were wide open and I knew what I was doing. In that area, I violated principles that I believe in, but no more. Senator Synowiecki has a bill that's going to try to raise fees, and I've always...already made it clear--no way. The judiciary is one of the three branches of this government. I am offended,

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not just at the current Appropriations Committee, so I don't want anybody to take personal umbrage, I'm offended that the Appropriations Committee has not assumed the responsibility that it ought to have to make sure that the government is funded in the way it should be. No Appropriations Committee has ever insisted that the Governor or the executive department find a way to operate on the basis of fees. We appropriate money. The Legislature does not operate on the basis of fees, charging a fee for every use of various rooms in this building and any other way that money can be hustled from the public. We appropriate money. The courts are there to administer the law and to provide equal justice. Even though members of the judiciary often fall woefully short in the discharging of their duties, those are individuals and the judiciary as an institution should not be harmed thereby as far as how the Legislature treats it. If Senator Beutler is successful, his aim is to change the system itself. When the system is to be changed, any cost ought to come by way of a General Fund appropriation and not an increase in fees. Even individuals who may have no occasion to go to court help underwrite the court through the payment of taxes. But that tax money that should be used to underwrite the operation of the courts will go for other things. And they say, since the court has a way to gouge the public through fees, let that be done. But I'm going to stop it, and I believe that I can.

PRESIDENT SHEEHY: One minute.

SENATOR CHAMBERS: And I'm as serious as a heart attack about this. Senator Beutler's plan has merit, but all of that goes out the window when fees are going to be raised to do that. I'm going to listen to the discussion, but my mind is not going to be changed with reference to increasing court costs, fees, whether filing or any other type of fee, by any amount. I was even misled, not intentionally, when I agreed to one fee increase, because I was not made aware that it would apply to traffic tickets. Then, after I had made my agreement, I was told, well, that's where most of the fees will come from. So traffic tickets would have the fee increased also. No more. Thank you, Mr. President.

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PRESIDENT SHEEHY: Thank you, Senator Chambers. (Doctor of the day introduced.) We have Senator Don Pederson, followed by Senator Schimek and Senator Baker. Senator Pederson.

SENATOR D. PEDERSON: Thank you, Mr. Lieutenant Governor, members of the Legislature. I think Senator Flood had a good point. He was wondering, in his county the clerk of the district court says this is okay, but his board doesn't think so; now, why is there a disconnect? Well, of course, because one is paying the bills, and this is the whole thing under this issue. Let's look at the state of Nebraska. We have way too many counties. We've got 93 counties and each one of those has to be treated individually as this bill would apply to them. Currently, you've seen the chart that was sent around by Senator Beutler, and you see that there are these various districts, and this bill would be implemented in stages through these various districts. But let me tell you, there is a clerk of the district court in each of the 93 counties, so that's what we're talking about, and this is why some of the counties are very concerned about this, because in over a third of our counties there are ex officio people serving in these offices. In the small counties they serve three or four different functions in the same vein. So here is what happens. If you appoint or if you designate that one of these people within all this myriad of jobs is going to be a state employee doing this particular function, the county still has the responsibility of paying for these other people who were doing the jobs that they were ex officio for. So, you see, it isn't saving the counties anything, the smaller counties. They're the ones I'm concerned about in this. We can talk about general saving, but we're talking about how it affects each individual county within the state, and I think we have to be concerned about that. So let's first say, is there a problem as far as efficiency or whatever else? No. I think probably there are as many mistakes that are made through state offices as there are through the local county offices, but that's not the issue. So the system, let's say, generally is working okay. What we're talking about now is implementing a statewide system where the clerk of the district court will be a state employee. Now, that doesn't include all of the functions, either, that would be involved in this. You've still got a bailiff that the county has to pay for.

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That's not picking up that expense. You still have the filing, the storage, and things like that, that would be applicable to a state office in that connection. And you also have a salary structure different from a state officer, as distinguished from the salary structure of the other people that are working in the county, and that doesn't lend itself to much goodwill. I know that Senator Beutler has worked on this for ten years. I do understand his interest and his concern for this and...but I'm concerned as to how it affects the whole state. You look at the expenditures--and now I'll put my other hat on in the Appropriations Committee--you see how it ratchets up on the fiscal note. It gets up into the multi-multimillions of dollars of state obligation we're taking on. So how are we paying for that state obligation? We're paying for part of it through the thing that Senator Chambers is upset about, and I'm upset about it, too. I don't think it's appropriate every time we want to do something different that we attach a court fee on to make it...to make it work, and that's about what we're talking about doing. Even that doesn't make this work. It only gets about halfway there anyway. But I think that we are taking on an obligation. Do you remember, those of you who have served in the Legislature for a while, that we had this great program that was going to be having the assessor's office taken over by the state and what a bonanza that was going to be for everybody because it was going to save all this money for the counties? Well, what it did was just...it became a millstone for the state of Nebraska because we finally had to say, we can't keep doing this; we can't afford to do this program.

PRESIDENT SHEEHY: One minute.

SENATOR D. PEDERSON: And now we're starting in a little different vein, but I'm concerned, we take on these programs under one guise and it ends up being a problem that we weren't comprehending. And as far as the fiscal aspect of this is concerned, I'm very concerned about it. You look at that, how that ratchets up to \$13 million pretty fast. And I think that we're taking on additional obligations that I don't know that we need to take on. We're not helping over a third of our counties. Now, if we were going to reorganize everything, if we...and I would say, if we could make a clerk of the district

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court a clerk within...for a district, that would be fine, if it covered the whole district. But it doesn't. We have a clerk of the district court in each county. And I think we need to restructure, but I think this is an inappropriate way to restructure. And for that reason, I'm going to oppose this bill. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Pederson. Mr. Clerk, do you have items for the record?

ASSISTANT CLERK: Mr. President, I do. Your Committee on Enrollment and Review reports LB 588 as correctly reengrossed; also, LB 693 correctly reengrossed. Your Committee on Revenue reports LB 957 to General File. I have notice of committee hearing from the Agriculture Committee. Amendments to LB 72 from Senators Stuhr and Schimek, to be printed. That's all I have, Mr. President. (Legislative Journal pages 473-474.)

PRESIDENT SHEEHY: Thank you, Mr. Clerk. (Visitors introduced.) Senator Schimek, followed by Senator Baker and Senator Dwite Pedersen. Senator Schimek.

SENATOR SCHIMEK: Yes, thank you, Mr. President. I'd like to give my time to Senator Beutler.

PRESIDENT SHEEHY: Senator Beutler.

SENATOR BEUTLER: Senator Schimek, thank you very much. Let me get through, if I can, describing the rest of what the bill does, so that you have before you the full dimensions of the bill. We talked about the fact that the clerk itself would be appointed by the judges, as opposed to elected, and you'll have to make your judgment about that aspect of it. We talked about the equity and fairness situation in terms of some uniform applicabilities of wages and salaries and benefits to essentially people doing the same work. And we've talked a little bit about the management capability of the system. What I am told and what I believe is that if the clerks of the district court are under the state system, more under the state system, not only will you be able to manage at the local level through the judges the day-to-day operations of the office and

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react to situations promptly, but you'll also be able to institute, faster and in a way that's comprehensive, changes in the court rules, changes in the court systems, technologies that are badly needed both with regard to budgeting, with regard to auditing, and with regard to the basic filing of documents. Do you know that in the federal courts of the state of Nebraska, with few exceptions, the only way you can file a document with the court is an e-filing? You do things by e-mail. Work is drastically reduced in the federal courts by just having the document go directly from the lawyer's office automatically onto the computers of the federal court. Anybody that wants that information can get it off the computer. They're doing that with most of their filings. That can cut down significantly on the workloads both in the clerks of the district court offices and in other court offices. We need to do that. That is something, like the JUSTICE system itself, which is difficult to do in 93 different counties unless you have effective management control of all of those offices. I want to indicate that there is another significant part of the bill, and that is that the bill, although it in and of itself does no merging of offices, but, like any good business model, it creates a pathway for merger. Just as in the business world from time to time you may need to restructure things for efficiency's sake, so too this bill would allow mergers between the clerks of the district court offices and the clerks of the county court. They do identical...

PRESIDENT SHEEHY: One minute.

SENATOR BEUTLER: ...kinds of work. Their systems in many cases could be integrated so that the work could be done more electronically and all together in one system, in one office. It is possible in this bill, under a local plan--and I want to say that twice--under a local plan--maybe I should say it three times--under a local plan, it's possible to merge those two positions into one clerk of the courts, so that you have one office for both the county courts and the district courts. The local plan that I'm talking about is developed by the local judges, district, county, and juvenile, and by representatives from both of the different clerks offices. And the bill provides that they shall obtain input from both local lawyers

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and from the local population.

PRESIDENT SHEEHY: Time, Senator Beutler.

SENATOR BEUTLER: So although no merger is required, it becomes, for the first time ever, a possibility.

PRESIDENT SHEEHY: Thank you. Senator Baker.

SENATOR BAKER: Thank you, Mr. President and members. And I'm going to ask some questions of Senator Beutler, so I'm not going to let him sit down here. But hopefully he can lead me through some of this. I want to clarify in my own mind, and hopefully in the minds of some rural senators, where we are now. And in my understanding, we...all the counties have a county court magistrate. Would Senator Beutler respond to this now?

PRESIDENT SHEEHY: Senator Beutler, would you yield?

SENATOR BEUTLER: Okay.

SENATOR BAKER: And they do have county court magistrates. In some small counties, which, I represent a number of those, they're part-time, but they are state-paid employees, and be shared between counties, as it exists now. Is that correct?

SENATOR BEUTLER: Yes. Most counties have their own, but in some small counties they share.

SENATOR BAKER: Okay. Now, one of my concerns I'm hearing from citizens out there is timeliness of filings where we have part-time. I can support this bill if we can create some efficiencies, which, I think what you just said, I was listening, that we're going to combine, in some cases, county court magistrates with the clerk of the district court ex officio now, so it would be actually under one roof, one person in this case, which is currently, in our local counties out there, the county court magistrate. Is that...do I read this handout correctly, then? If there's a county court magistrate and an ex officio district court clerk, they would merge into the one state employee. And it could be, depending

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on who resigned, or if the office was open, it would probably be the existing county court magistrate now that would assume those duties. Is that correct?

SENATOR BEUTLER: Yeah. If I...if you...with your permission, let me back up a little bit,...

SENATOR BAKER: That's fine.

SENATOR BEUTLER: ...because many people, especially those who come from Omaha and Lincoln, may not understand that there are ex officio clerks out there. And basically, about a third of our counties, I think, have ex officio clerks. And an ex officio clerk is one that's not elected and not appointed by the judges, but basically chosen by the county. The ex officio clerk is usually part-time, although in some strange situations out there the ex officio clerk seems to have hired somebody else to do the actual work, and so there's even one degree additional removal from accountability in this system that exists out there now in some places. With respect to a potential merger, there are two different situations, under the bill. If you have an ex officio, then in that case, if there's a local plan, merger can occur at any point in time under the bill, if you have the local plan and if it's an ex officio. It's not required to happen at all. If the judges in that particular area don't think the public is better served by a change, then the system will remain essentially the same. If you don't have an ex officio but you have an elected clerk, then merger is also possible, but it's not possible until one of the two positions is vacated. In that instance, the position that is still filled, whether it's on the district court side or the county court side, becomes, if a local plan recommends a merger, becomes the clerk of the courts, plural. And so you have one position for clerk of the courts.

SENATOR BAKER: Okay. My next question or concern that I'm hearing from citizens and ex officio clerks out there is, they obviously,...

PRESIDENT SHEEHY: One minute.

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SENATOR BAKER: ...in most cases, are there five days a week, and we do have part-time county court magistrates out there, so they're handling, during the week when that county court magistrate is at another county, they are handling that business of the county court from the clerk's office. And their concern is that, well, that will be taken away from...well, actually, my question, I guess, is, is there a provision or...I could ask the court administrator, but perhaps you know. Is there provisions, are they paying those county clerks now to handle the work of the county court magistrate when that person may be gone to another county? Do you know, is there some reimbursement involved there?

SENATOR BEUTLER: You know, I can't answer that across the board, but I...it's my understanding, there...it is in some places. In other places, it may not. But I don't...I would want to get better information from the court...

SENATOR BAKER: And I likewise, we can go...

SENATOR BEUTLER: ...administrator's office.

SENATOR BAKER: ...talk to clerk...the representative out here. We can find that out. I didn't know whether you knew that or not. But I understand that also, and I'm not sure. That's why I'm asking you a question. And I will get some answers on that. And then...

PRESIDENT SHEEHY: Time, Senator Baker.

SENATOR BAKER: Thank you.

PRESIDENT SHEEHY: Senator Dwite Pedersen, followed by Senator Loudon and Senator Janssen. Senator Pedersen.

SENATOR DW. PEDERSEN: Thank you, Mr. President, members of the Legislature. LB 529 is no stranger to me, after being on the Judiciary Committee for 13 years, now being 14 years. Senator Beutler has brought this around and around, and I've gone both from not supporting it to full-heartedly supporting it. There is problems in the bill, or, I have concerns about the money

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parts. But if we're going to bring any consistency and direction to the way the constitution is putting the Supreme Court in charge but yet not giving them jurisdiction, then I think we need LB 529. I hope that we're going to work this through and do what we need to do to move on it and have it done this year, and that it will truly be the bill that I think it can be, and that Senator Beutler has worked so hard on having it to be. With that, I'd give the rest of my time to Senator Beutler.

PRESIDENT SHEEHY: Senator Beutler, you have 3 minutes, 45.

SENATOR BEUTLER: Mr. Lieutenant Governor, members of the Legislature, let me just orient you if I could to the handouts that have been passed out to you, so you know what you have in front of you. I wasn't able to get to that. But first of all, you have a concept sheet for LB 529 that describes for you all of the things that the bill does in terms of anything that is particularly important. For sending out to your constituents, I think this would probably be a very good description of the bill as it would be amended by this particular amendment. Then you have a copy of the support of the clerks of the district court, which was forwarded to us. It was e-mailed to us, so we...that's the reason it's not signed. You then have a handout that is entitled, at the top, "Location of County Court Judges Statewide," so you can see the actual physical location of the county judges. Of course, many of them go from county to county. One of the most wasteful processes we have in terms of use of resources these days is the traveling that it takes to go from county to county in some of the more sparsely populated areas of the state, and that's why the whole concept of using the Internet and using computers and getting into e-filings, something like an e-filing process, is tremendously valuable for attorneys, so they don't have to travel large distances, so they can file things rapidly. The whole system would be benefited by that, as they are benefited by the increasing use of technologies to hold small conferences and meetings between lawyers and judges. But this county court map at least gives you a concept of where the home counties of the various county court judges are. And then there's a similar map that describes the location of the district court judges statewide. And again,

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the district court judges do a lot of traveling.

PRESIDENT SHEEHY: One minute.

SENATOR BEUTLER: And again, to the extent that we can cut down on that through the use of electronics, that's going to be very, very valuable for us. Finally, a blue-colored map shows you the three stages of transition. The greenish-blue on the western side are those districts that come into the system first; the dark blue are those that come in second; and then, of course, Douglas, Sarpy, that area, comes in last under the transition. You should have an "X" mark on some of the counties. Those are the counties that have ex officios. The ex officios, by the way, are always the county clerks. They accept the work of being the ex officio as part of their office. And the map has on it the effective dates...

PRESIDENT SHEEHY: Time, Senator Beutler.

SENATOR BEUTLER: ...of the transition. Thank you.

PRESIDENT SHEEHY: (Visitors introduced.) Senator Louden, followed by Senator Janssen and Senator Beutler. Senator Louden.

SENATOR LOUDEN: Thank you, Lieutenant Governor and members of the Legislature. I have concerns about this LB 529 and as it's written in the AM1795. As I read through it, I notice as you get over there on...I think on page 5 or so, when you get all done with a lot of it, it said, if a plan is not developed, why, then within a certain number of days the Supreme Court shall develop a plan. And therein is part of the problem. I think you have this done by some entity that's someplace else in a part of the state. Another problem I have with it is, these are elected officials, and when you do away with elected officials, many times there's no recourse if those officials that get appointed to those positions aren't as competent as you would like to have them, or if there's some problems arise, then you have to go through some type of process to remove them out of the area, whether it's post office department or wherever it is. But we all know what...when government officials are someplace

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and you have problems with them, what it is to get any changes made. So I have problems with that. Part of the problems I have is they...the state is supposed to take over this, and they will do the funding. And I have a long enough memory to remember when the state was going to take over the county assessor jobs. It started out, they...some of the counties went in to having state do the assessor work, and first thing you know, they run out of money. And it was supposed to save money to start with, and now, why, it's shown that it's going to cost more money if we go ahead and do that. State didn't have any money, so they had to kind of junk the idea, or put it on hold, and consequently, that went someplace else. So when you get...start working on these district court clerks, there's probably, no doubt, ways it can be more efficient. As Senator Beutler has pointed out, there's a lot of Internet service coming on now, and computer work done. Part of the problem is, is out in the western end of the state, you don't always have Internet service everywhere. So it will take, certainly, a number of years till the technology catches up out there. And I'm sure it can be done in those areas, too. Usually, with these situations like this, if you let the people that are involved work towards their own ways or whatever ingenuity they have, they'll eventually solve the problems themselves, and they'll probably do it so that most everyone is satisfied, and they usually do it so that it's the most economical process in the end. A case in point is some of our health services that are done out in the western areas, and some of those were used as a model for the rest of the state. So I question whether this is something that really has to be done. It's worked at the present system we have. Right now there's many of these counties that are sharing these people. And we have...our district judges are getting fewer all the time out there, have to travel the miles. But we do need local people in local areas for some of the court filings and that sort of thing. So I feel that I probably will not support this amendment and the LB 529 that it takes the place of. Thank you, Lieutenant Governor.

PRESIDENT SHEEHY: Thank you, Senator Loudon. Senator Janssen.

SENATOR JANSSEN: Thank you, Mr. Lieutenant Governor, members of the Legislature. You know, on the surface, this seems to be a

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very good proposal. So was the proposal when we established the state assessors, which was permissive. You could choose to use the state's assessor. And I happened to live in a county that did that. They assumed the state assessor, and it saved that county a lot of money. The county I represent is Dodge County. We have one of the lowest, if not the lowest, levies of all the counties in the state. And having the state assessor was one of those reasons. Now, and I think that would also add to the revenues of the county if we assumed the clerk of district court, but I fear that the same thing would happen. Now, that is one of the reasons that, you know, I'm on the fence on this bill. I'd certainly like to support it, because I can see the benefits that it would bring to the counties and to the whole judicial system. Then I listen to Senator Pederson talk about what is, you know, the problems that the Appropriations Committee have. Like I say, in a perfect world I think this would be absolutely great. But with the revenue streams that we're witnessing...and being on the Revenue Committee, I can see what...yeah, we see...hear so many bills there, and they're all good bills. Someone has done a lot of work on those bills. But we cannot use every idea that comes before that committee, because the revenues just aren't there. So I'm going to sit back and listen to the debate. Senator Beutler, you've worked so hard on this for so many years, and it's a good idea, it's a great idea. But there are a lot of great ideas out there, but the revenues just aren't there to keep those things in place. This is probably the last time I'll talk on this bill, and I hope you can understand my feelings. And Senator Beutler, if you'd like the rest of my time, you're certainly welcome to it.

PRESIDENT SHEEHY: Senator Beutler, you have about 2, 15.

SENATOR BEUTLER: Senator, thank you. Obviously, I'd like to persuade you otherwise than the direction you're going, Senator. But let me say first of all that there has never been a better time for this bill than now in the whole time I've been in the Legislature, 20-some years. The revenues are better now than they've ever been. If...and by the way, the new revenue required is not \$13 million, as has been stated earlier. The new revenue required is about \$7.5 million, because there are offsetting fees, child support fees and county court fees, that

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come over to the state that formerly went to the county to reimburse them for their salaries and benefits, now comes over to the state. So the total cost of running the system that is new to the state is about \$7.5 million. As you know,...

PRESIDENT SHEEHY: One minute.

SENATOR BEUTLER: ...we have very significant amounts of excess revenues right now. The Governor is talking about tax cuts. We have to make choices. We need to have a good reserve fund. But there comes a time in the cycle of things where you either correct the structure so that it can go on a path that's efficient, or you let it pass and it doesn't happen for another decade. If you pass this bill, you open up and allow to happen a merger process that can be extremely valuable to the long-term structuring of the courts. If you reject this bill, even if you have Senator Flood's certification or some other things that help a little bit with the management side,...

PRESIDENT SHEEHY: Time, Senator Beutler.

SENATOR BEUTLER: ...because they're county employees right now, you can never ever put the offices of the clerks of the district court and the clerks of the county court together.

PRESIDENT SHEEHY: Senator Beutler, you're recognized to continue on your time.

SENATOR BEUTLER: So I urge you to think about that. I think one of the biggest criticisms that this Legislature historically is subject to is that we don't allow change, beneficial change, to happen fast enough. The world is going so fast now. Have you see, have you noticed, how rapidly computers have come on us, and all of the electronic advances? These things are happening more rapidly. And if we're going to adjust our political structures, our court structures, our state office structures, if we're going to make them change and be more efficient with the rapidity that the private sector does, and there's no reason we shouldn't do that to the best of our ability, then we have to position and do those structural, statutory changes that allow us to take advantage of the

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technologies. And people are rightfully critical of us if we don't do that. If you really believe, as I really believe, that there are significant advantages to looking at the merger of filing systems that are now separate, one in the clerk of the county court and one in the clerk of the district court, that are separate merely because historically they have been separate, that there's no particular good reason why they should be separate, but you can't do anything about it because one is a county function and one is a state function, why would you not want to open up the possibility for change, for advantageous change, by making them both part of the same system so that then they can be further modernized and be in receipt of our most modern technologies? I don't know all of the facts about what the situation is with the state assessors and with the experiment that was part of the state assessor system. Apparently, a few of them that volunteered came on the state system. I don't know the facts and figures, maybe other people do, about whether they're really more expensive now or not. I've heard both ways, that they were more expensive at first but now they're not. In any event, this is, to me, entirely different. You're talking about the judicial system here, who has managers not only at the top of the system, but where the responsibility for the operation of the clerk of the district court's office would still be local, would still be local. The judges in the district would be the ones who would be responsible to see that the work in the clerk of the district court's office was done efficiently and at the very least cost possible. That sort of structure does not exist at all in the other situation which some have sought to make analogous.

PRESIDENT SHEEHY: One minute.

SENATOR BEUTLER: So I don't think that any comparison between the two is legitimate, at least insofar as I understand those situations. And I would be interested in the facts and figures that indicate that that situation is a worse situation. But in any event, it's not nearly the same kind of structure that we're talking about. Thank you, Mr. Lieutenant Governor.

PRESIDENT SHEEHY: Thank you, Senator Beutler. Senator Stuthman, followed by Senator Redfield, Senator Brown, and

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Senator Smith. Senator Stuthman.

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. First of all, I want to thank Senator Beutler for bringing this bill. I think this bill is something that we need to look at and we need to discuss. We need to take some time on this bill, because there are a lot of things that it could affect. One of the things that I have a concern with is that the elected officials of the counties are not realistically supporting this bill, but yet the clerks of the district court, that organized group, they support this bill. I have some problems with that. You know, that group as an organization are supporting it because realistically, today, tomorrow, or in the future, their position will still be there. Now, but the county boards, the county boards are the ones that are in control of those offices, of those county offices. They're in control of the budgets of those offices. They're also in control of everything that happens there. I think the county boards are looking at it in a realistic fashion as to, you know, what will happen, you know, when that job or task of running that office is not there anymore, but they're still going to have to have an office for them, they're going to have to, you know, fund the office. Those are some of the questions that I have. Senator Beutler also says that it's going to be a \$6 million property tax relief. Yes, it will probably be a property tax relief. But in my opinion, it's a tax shift, and realistically, it's going to cost a little bit more than what we're paying from property taxes right now. But there is one thing that, you know, I think is of value in having the state take over it. There's some value to the court systems mainly because the county court system is already under the jurisdiction of the state, but the clerk of the district court is not. That's still under the county part of it. I think that some of the smaller counties, there can be better utilization of staff, you know, that one can work in the other court when needed. That's the good part of it. The thing that also concerns me is that in a lot of the smaller counties, which, the majority of them are opposed to it, I think looking in the future that there's a possibility that some of those offices will possibly be closed. Maybe they'll be manned by one person for both of the court systems, the county and the clerk of the district court will be

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combined into one. I have a real problem of these smaller counties being directed to get smaller yet. I think one of the things that we're really trying to do is trying to build outstate Nebraska. And what are one of the ways that we can build outstate Nebraska? And that is through employment, have more people out there paying taxes, not trying to cut down and eliminating positions, driving these people out of the communities. That, I think, we need to take into consideration. I'm going to listen to the debate. I have not made up my mind. But another concern that I have, and that...and because I've just come from county government, I went through the process of the possibility of the state taking over the assessor's position, and I think they had a good idea initially. But after a couple years, they found that they...

PRESIDENT SHEEHY: One minute.

SENATOR STUTHMAN: ...realistically couldn't fund it. What's going to happen if this goes bad, too? Yes, I know we are looking at additional revenue right now. But what's going to happen in lean years again? Are they going to have to say, well, county so-and-so, you're going to have to take over those duties? You know you are...you've got the office, you're paying for the office, you're doing it already; I think you should just take over on the salary of that individual in that county. What's the county going to have to do? They're going to have to come back and raise property taxes, because that's the only method where counties can get money to pay the salaries and pay for the functions of the county, through property tax. I do agree that this would be, you know, property tax relief. Like I said, there's only a few ways you can get property tax relief. But is it going to come in the future, in a couple years, when we will have to, you know, increase that again, and it's put...?

PRESIDENT SHEEHY: Time, Senator Stuthman.

SENATOR STUTHMAN: Thank you.

PRESIDENT SHEEHY: Senator Redfield.

SENATOR REDFIELD: Thank you, Mr. Lieutenant Governor, members

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of the body. I would like to direct some questions to Senator Beutler, if he would.

PRESIDENT SHEEHY: Senator Beutler, would you yield?

SENATOR BEUTLER: Sure.

SENATOR REDFIELD: Senator Beutler, currently we have restricted growth lids on the counties, and they are only allowed to grow their budget. Many times when we've had some obligation, that is, the state, we've put on them, we've allowed them some growth. Correspondingly, if we were to reduce some of the obligations that they have in government, we might want to cut back that growth factor, or, I shouldn't say the factor itself, but the base that they grow on. Is there anything in the bill that actually would reduce the budget of the county by the amount that they would lose, that they have budgeted now for this service and would no longer have to provide?

SENATOR BEUTLER: No, there is nothing currently in the bill. And I'm open to whatever this body might want to do with regard to whether they want to deal with that particular issue and how they want to guide any of those savings that might...that are there.

SENATOR REDFIELD: I mean, I'm sure that they have a lot of other needs and things that they could use the money for. But at the same time, we may not see the property tax relief that may be promised here if in fact they use those funds for some other purpose. Then my other question would be, or concern would be, actually what Senator Loudon was talking about and Senator Stuthman was talking about, is that if in fact the state were to have a budget crunch and stop the process in the midpoint, then we might have some counties who have actually appropriated those funds for some other purpose, and now face having to absorb this cost, and not have the wherewithal to do it without raising taxes. The assessors office change was certainly one of the changes that we had, and yet some counties petitioned the state to have it taken over, and the state said no. And during this implementation phase over three years, you could have the first half, western half of the state, we might

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start the process, it might be very costly to the state to do that. They may actually have the benefit financially, but they might have the downside of all the glitches in the initial conversion. But then we may not be able to complete it if we hit budget woes. I'm looking at the A bill, and it's looking like in 2010-2011, we're talking about \$13 million?

SENATOR BEUTLER: No.

SENATOR REDFIELD: No? Am I looking at the wrong A bill?

SENATOR BEUTLER: Yeah, I think you'll want to understand the distinction between the total cost of the system and what the General Fund and/or new fees, how they comprise a part of that total. Right now, there are IV-D funds coming into the counties, and also fees, district court fees. Those fees would no longer go to the counties, because they are to...they are related to the personnel doing the work, so those fees would come to the state. That would take the state's cost down from \$13 million to in the area of \$7.5 million.

SENATOR REDFIELD: 7.5...

SENATOR BEUTLER: And then General Funds would even be a smaller proportion of that, because of the \$2 court fee.

SENATOR REDFIELD: So without the \$2 increase, the cost to the state could be \$7.5 million a year?

SENATOR BEUTLER: Yes.

SENATOR REDFIELD: All right. I'm going to listen. I like efficiency, but I am very concerned whether we could complete this...

PRESIDENT SHEEHY: One minute.

SENATOR REDFIELD: ...process over this time frame. I understand the wisdom of rolling it out slowly, but I also have the concern of whether we'd actually complete it and find the eastern half of the state paying not only the burden for the

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western half, but then their own as well, if we couldn't complete the process. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Redfield. Senator Brown, followed by Senator Smith, Senator Flood, and Senator Stuhr. Senator Brown.

SENATOR BROWN: Mr. President, I would yield my time to Senator Beutler if he would need some time.

PRESIDENT SHEEHY: Senator Beutler.

SENATOR BEUTLER: Thank you, Senator Brown. Let me address a couple of things I heard, just to give you a different perspective on them. First of all, it was stated that if the counties have an additional \$6 million that they then took to reduce property taxes, should they take that path, under the bill, they could take one of two paths--they could reduce property taxes, or, if they needed new roads or had other dire needs, they could use that money on other expenditures. In any event, it was criticized as being a tax shift, that that's the way we get property tax relief. Well, it's through a combination of mechanisms, some of which were suggested by Senator Redfield, that we get property tax relief. But a huge part of that has in fact been a tax shift. That's what we really have to do if we want to reduce property taxes. State aid to education has gone up, as we all know, through the 1990s and the early 2000s, dramatically. That's giving state sales and income tax money to the local school districts so that they don't have to levy a property tax. It's a tax shift, but that's how we get property tax reduction. We can't leave the counties and the school districts and all those people out there without some source of funding. But the value of that tax shift, if you want to call it that, is enormous if you're a farmer or somebody that is retired and on fixed income and you really think and know that, for you, property tax reduction is the most important form of tax reduction. And through the mechanisms of the tax shift, as was referred to, or in other words, by substituting sales and income tax money for property tax money, we have in fact, in the time I've been in the Legislature, brought this Legislature up from being the one or two states in the union who

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most relied on property taxes, to now about the 14th or 15th state in the union. That is, we, as a proportion of our entire tax burden with respect to our citizenry, as a proportion of that, property taxes are going down and sales and income taxes are financing a larger and larger share of the overall government effort, state and local. So this bill...and you can tie it down more closely to tax relief if that's what you would like to do. That's fine with me. I left that open. But if you want more tax...property tax relief, this bill is a good mechanism to do that. And I don't think that we should shy away from this bill because it's giving property tax relief. That's a good thing. How much time do I have left, Mr. Lieutenant Governor?

PRESIDENT SHEEHY: 1, 05.

SENATOR BEUTLER: Okay. I want to go on to a different topic, but I think I will stop at that point.

PRESIDENT SHEEHY: Okay.

SENATOR BEUTLER: Thank you.

PRESIDENT SHEEHY: Senator Smith.

SENATOR SMITH: Thank you, Mr. President, members. I think this is a very relevant discussion that we are having, and I certainly hope to contribute a little bit. When I look at the fees, I must say that I agree with some of the statements made earlier, that our court system should not be funded so heavily by fees. The court system is for everyone, and is certainly, I think, very relevant to General Fund expenditures and General Fund support. The \$5 increase in the fees is a pretty hefty increase. And when we look at that increase coupled with the fiscal policies of the 93 counties across the state and their personnel policies and who shares what jobs...and I have to say that I believe they're getting the job done right now. And could the system be better? Probably. I just hesitate to say that this is the right answer. It was ironic when we heard that in a county, the county board, the ultimate budget authority in a county, would be opposed to this, when the most affected party

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in terms of personnel, and perhaps employee benefits or otherwise, was in favor of it. And I would think that the county board, being the ultimate budget authority, would appreciate freeing up the dollars that this bill would do for a county's general fund. And...but that's not the case in this particular county, and that's why I'm anxious to hear even more information. And there might be an opportunity for us to vote on this bill sometime soon. Not quite certain. But nonetheless, I think it is important for us to look at what this does in terms of state expenditures, that after, I think it's 2011, we're looking at a net cost to the state of almost \$6 million, because the \$5 fee, even increasing the \$5 fee...or, even increasing the fee \$5 more, will not cover the added expense to the state. What's interesting is to look at that growth of the price tag from now through 2011. There's huge growth there, based on employee benefits and other costs that are obviously part of the mix. So we, I think, need to be careful. I have some General Fund concerns ultimately. But in the short term, there is this increase in the fees, and I think that we should not adopt this. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Smith. Senator Flood.

SENATOR FLOOD: Thank you, Mr. Lieutenant Governor, members. With regard to LB 529, this is a bill of role reversals in several ways. Here we have an opportunity from Senator Beutler that would essentially reduce the financial burden on counties, and we have counties, in a weird role reversal moment, saying, we want to pay for this. And while it's interesting to look at the big picture, I want to say a few things. I don't have a problem, and I don't imagine the district court clerks would have a problem if they were appointed by a district judge. In the interest of justice, I think that that works. I'm not opposed to electing district court clerks, but I do think, at the end of the day, the Supreme Court needs a way to put its thumb on these offices so that we have a uniform, unified system, where everybody follows the same rules. A district court clerk in south-central Nebraska or northeast Nebraska shouldn't wake up some day and say, you know what, I'm going to do my filing system differently, I'm going to...I'm not going to comply with this effort to have e-filing in my court. Attorneys

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don't want it; I'm not going to do it. I don't care if the guy is from Omaha and he wants to e-file something in my court. E-filing in this court is, you show up and you hand it to me. Yeah, the Supreme Court should have some way to create a uniform system. But we have an opportunity here to tinker with the way it's done and to make sure and ensure that the Supreme Court has its control, and say to the counties, we're not going to deprive you of your opportunity to pay for the district court clerk. In fact, we'll give the Supreme Court the authority to issue certificates and certify that you are a licensed and able district court clerk; we'll revoke that certificate, just like we would with a sheriff or a judge or any other position, if you're not following the rules. But the county can continue to pay the bill. That, I think, is a compromise, that we walk away with a win because we've got the Supreme Court in a position where they have more control, and the counties still have the ability to pay their own district court clerk and to keep things working on that level. I think this is...it's an odd situation to be in, but if you look at my amendment that will be discussed soon here in AM2019, which is on your computer, it does exactly that. We treat the district court clerk like we would a sheriff or a judge or anything else. We require them to obtain a license or a certificate, and we take that certificate away if they're not following the rules. And that, from my perspective, gives the Supreme Court the authority and control it's looking for, for a unified, uniform system of courts, both county and district, you know, and appellate, in this state. And I would ask you to give that some serious consideration. The amendment doesn't cost anything. It accomplishes part of what I think Senator Beutler is looking to accomplish, and it allows the counties to retain the financial responsibility for an office that they have serious concerns about transferring to the state, at least fiscally, at this time. I think any county commissioner in the state would have a hard time explaining how they have control or the county has control over the district court clerk. The district court clerk has to accept the filings and has to work within the rules of the Supreme Court now. In fact, the district court clerk really has to listen to the district court judge to see how the judge wants things run in that district. We aren't departing from the course too much by adopting AM2019. And I realize it's not up for discussion yet,

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but I think this at least is a start to address some of the problems that have been reised, without depriving the counties of their opportunity to pay for the district court clerk. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Flood. Senator Stuhr, followed by Senator Wehrbein, Senator Baker, Senator Don Pederson. Senator Stuhr.

SENATOR STUHR: Yes. Thank you, Mr. President and members of the body. First of all, I do want to thank Senetor Beutler for his work on this issue, because I know he has spent a great dael of time. Also, there's been a great deal of discussion about the takeover of the state in regards to the county assessors. And I think we all know that, the way that bill was written and executed, it did not work well, and we came back in a couple years and in fact changed that. I do believe the bill that we have before us that Senator Beutler is proposing is certainly structured in e better way. It prevents that patchwork that took placa under the takeover of the county assessors. I think there are several concerns, at leest that I heve, and thet they have been expressed this morning, a problem of what will the counties do to obtain some of the lost revenue if their offices are taken over. That is a concern, I know, by the counties. I think there's also a concern of some of the employees being county employees and then also the state employee. It's my understanding, even when this took place in the assessors, that all of a sudden thay have new computers, they have new offica equipment, they have a higher salary, and these are all things that do play a part. I do...am opposed to the increese in fees. It was only three years ago that wa raised court fees from \$1 to \$5. Last year, we made some additional increases in court fees to help cover the judges' retirement. And I just have a real problem of looking in this area for increased faes. I am interested in the amendment that Senator Flood is bringing. I personally wonder how much of a management problem there is, if that is really what we're trying to get at is this management process. It seems to me that if all of the district clerks were to obtain and meet certain standards, that the Supreme Court certainly would be involved in that procass and we would have a great daal of uniformity. I don't see Senator Beutler. I was

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going to give him the remaining of my time if he would like it.
Thank you, Mr. President.

PRESIDENT SHEEHY: (Microphone malfunction)...Flood? Senator Wehrbein.

SENATOR WEHRBEIN: (Microphone malfunction)...President, members, I'm going to be brief, because there has been a lot of comments. But my concern...I've been supportive of this in the past, but I understand some of the concerns that some of the clerk of the district courts are having now. And I intend to spend some time over the weekend talking to...about some of their concerns. I really wanted to say, I'm most of all concerned about the responsibility that the Supreme Court has, without the authority to do anything about it. That is my concern primarily, and one of the reasons I was enthused about this. I think the money and the financial part of it is a consideration. It should be received as property tax relief by the counties, but apparently it isn't. One of the things that I'm cautious here...and I applaud Senator Beutler's putting the phase-in plan, because that's one of the mistakes, in my mind, that we made when we took over the...when we started taking over assessor functions. There was no plan in place. I really believe, in spite of the fact that there's been some disgust, if you will, with the assessor program, that could have worked better if we would have had a plan, had a phase-in, and allowed for, I call it clusters, for lack of a better term, where counties could have had, in an area or a region, it would have been more efficient for one person to do that. We're at the place now that some counties could come on without any additional cost at all. But we have no plan in place that that can be accomplished. And so I think it's not quite correct to call the assessor thing a fiasco, as some of my mail indicates. But we did have a problem there with statewide assessments, and to some degree, there's still some occasional problems. And that's one of the reasons that we looked at that, in addition to the cost to some of the counties, it was an undue burden to keep those evaluations up to date. I don't want to make that mistake here, and so I do think that we need to have the phase-in plan. And I believe, as near as I can tell, Senator Beutler's plan is pretty good. I'm...I guess the way I understand it...and I

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wanted to ask Senator Beutler one last question. If the hundred...if the counties don't submit a plan in the first 120 days, then the scenario is that it's open then for the Supreme Court to provide a plan for local county clerks of the district court. Is that right?

SENATOR BEUTLER: That's right, if they don't (ineudible).

SENATOR WEHRBEIN: I'd ask Senator Beutler?

PRESIDENT SHEEHY: Senator Beutler, would you yield?

SENATOR BEUTLER: That's right, Senator. If there's no...if they don't...

SENATOR WEHRBEIN: If they don't have a voluntary one, they will have a mandated one, so to speak. And I know this will be done cooperatively. I'm not...maybe "mandate" isn't quite the right word. But it's intended to be cooperative effort even then. If there's not a plan in place by...voluntarily, in the 120 days, Supreme Court will be sure that there is one.

SENATOR BEUTLER: Well, right. If they just refuse to do a plan, right.

SENATOR WEHRBEIN: But they would have the authority to do it, as...

SENATOR BEUTLER: But that doesn't...you know, that doesn't mean that their plan has to be like the Supreme Court plan, or like the Supreme Court would like to have it. I mean, I'm assuming that plan will be followed, or there would not be merger.

SENATOR WEHRBEIN: And then that does lead me to a question. If there is not merger, does this really accomplish what you were ultimately trying to do, and that's one standard authority throughout the state for the responsibilities that these local courts have? I mean, what if you really wanted to stonewall this plan?

SENATOR BEUTLER: Well, the plan is...has many...has several

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parts to it, Senator. And uniformity throughout the state isn't...doesn't require necessarily a merger.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: The fact that they would be appointed by the local judges and part of the state system, even if they're not merged, would ensure uniformity, I would hope. But if greater efficiencies...I mean, for example, many people will say, not everybody, but many people will say that when the child support basically left, in large part, district court offices, that there was not an appropriate reduction of personnel...

SENATOR WEHRBEIN: Yes.

SENATOR BEUTLER: ...in some of those offices to reflect that. Well, if you can merge sometimes in some places or through attrition, you can get back to greater efficiencies, I think. (Inaudible)...

SENATOR CUDABACK: Time, Senator Beutler.

SENATOR WEHRBEIN: But I was thinking about some of the processes.

SENATOR CUDABACK: Thank you, Senator Wehrbein. Mr. Clerk, items for the record, please.

CLERK: Thank you, Mr. President. Your Committee on General Affairs offers a notice of hearing, several notice of hearings. Business and Labor does likewise, notice of hearings. Banking, Commerce and Insurance Committee, notice of hearings. And the Education Committee, a notice of hearing. Your Committee on Transportation, Chaired by Senator Baker, reports LB 796 to General File. Urban Affairs, Chaired by Senator Friend, reports LB 850, LB 1029, LB 1054, and LB 1066 to General File. And the Revenue Committee, Chaired by Senator Landis, reports LB 896 to General File with amendments. Priority bill designation: Revenue Committee has selected LB 1003 as one of its committee

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priorities. That's all that I had, Mr. President. Thank you.
(Legislative Journal pages 474-477.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Back to discussion of the Beutler amendment to the committee amendments to LB 529. Senator Baker, followed by Senator Don Pederson.

SENATOR BAKER: Thank you, Mr. President and members. I want to continue the discussion here. I don't want to tie this bill to the county assessor situation. I do have a bill introduced concerning the county assessors, and to tie this to what we've done with the assessors, the state takeover of counties for assessing duties, is not fair to Senator Beutler's bill. And I want to clarify a few things. I have a county in my district, in fact, where I live is a state-assessed county, and it's worked very well. The problem we ran into with that is, we had a budget crunch and we had various counties applying to be taken over by the State Assessor's Office, and we had no money. And I think at one time, maybe it was Senator Wehrbein, I think, had a bill carried for the Governor to give those back because of the budget crunch. The error we made there was that we didn't do it uniformly and have the process down well. As Senator Wehrbein said, we had a county here, a county there. And I think there's nine counties, I believe it is--I'll probably get an e-mail saying I'm wrong--but I believe it was nine counties, and they're scattered all over the place. And to create an efficient network, we needed to congregate or cluster these. As Senator Wehrbein said, we did not. The bill that I do have allows the county...or, the state Property Assessment Taxation to take over adjoining counties if they can do it at no additional cost to what is now being...costing the counties. So we want to try and rectify that yet this session somehow also. Some of the concerns that have been raised out in the rural areas is the timeliness of filing restraining orders and so on like that. Where the county clerk is there five days a week and basically eight hours a day, how is that going to be handled? Well, I've learned a great deal just this morning, and I have studied this bill quite a bit. But one of the reasons we need to go ahead and do this is so that we can provide some uniformity. And I was told by the court administrator they're going to have a couple counties up within the next six months

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for e-filing. And Senator Beutler brought that up, it's there now on the federal court system. And without some jurisdiction over these county...or, district court clerks, it's going to be very difficult to provide that uniformity. And I defend my county court...or, my county clerks who are ex officio. They're good people and they do their job. But there also is the question of how, when the county court magistrate is gone and so on, timeliness and whatnot. I can see now that if we could get this through some electronic filing process, that I could go file, say, a claim in small claims court, and I might not have a person to do that in the office, but a big reason we're studying this issue, Senator Beutler has put so much time in it, is that uniformity and being able to file these things electronically. And I know there's some resistance out there, but folks, we got to step up here. And I have a bill in Committee Transportation Telecommunications dealing with PSAPs and so on. We're going to have to get up to speed here. The technology is out there and we need to provide some uniformity across county lines, and in this case statewide, for electronic filing in district courts. It's there now in federal courts. And somebody, I believe, mentioned they were used in a number...3 counties out of 90; 3 that we having problems with...I don't know what the number is, but there is that resistance to move forward, and this bill would provide some uniformity. And Senator Beutler, I don't remember. I was asking questions about the merger process. If you want my time,...I know that there are a lot of lights on. I don't...how much time do I have left?

SENATOR CUDABACK: About 1, 25.

SENATOR BAKER: I guess I'd like to ask Senator Beutler a question or two, back to the conversion over, the process. There's some concern out there in my rural counties, I'm getting e-mailed as we speak. They're watching us. They're listening. Anyway, in the case of a vacant seat in the county court magistrate's office, there would be an option, according to this handout we have, they don't have out there, to go ahead and...

SENATOR CUDABACK: One minute.

SENATOR BAKER: ...if...with the judge's recommendation, I think

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it's up to the judges, they could recommend that the current county court, or district court magistrate...district court ex officio could take that job, assume that county court magistrate job. Is that correct? It would be up to the judge?

SENATOR CUDABACK: Senator Beutler, would you yield?

SENATOR BAKER: Could you answer that?

SENATOR BEUTLER: Senator, let me be sure I understand your question.

SENATOR BAKER: There is an open county court magistrate job out there, a county court magistrate is open, the position is open, the person is retired. The judge then would have the option of appointing the county court...or, the district court ex officio, who happens to be the county court clerk, I suppose, in some cases, it might not be in all. But would that option be left up to judge...

SENATOR CUDABACK: Ten seconds.

SENATOR BAKER: ...of the district then?

SENATOR BEUTLER: I'm going to...

SENATOR CUDABACK: I'm sorry, time is up.

SENATOR BAKER: You get time to think. Thank you, Mr. President.

SENATOR CUDABACK: Thank you. Thank you, Senator Baker. Senator Don Pederson.

SENATOR D. PEDERSON: Mr. President, members of the Legislature, probably the poorest argument--and I say this with due respect to Senator Beutler--the poorest argument made for this is that now we have some money so now we ought to be doing this. I think that we can't approach things on that kind of a basis. Either they have merit or they don't have merit. The fact that we've had additional revenues now is not a good basis for doing

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this. So I just want to dispel that idea. And also, as Senator Janssen has pointed out, our revenue fluctuates. We're at the high level right now. So what do we do when we get to the low level, when it drops way down like it did a few years ago to .6 percent growth in that year? And that's what happened with the county assessor situation. So we're taking on another responsibility, but let's don't do it on the basis that, we have some money now; let's do it, because this is an ongoing thing. Another matter that I want to clarify is that I did say, Senator Beutler, and I was the one that said this, that this, by the year 2011, is an expenditure of \$13,500,000, approximately. And there are offsetting revenue matters that will dispel part of that, and that's where you get down to your \$6.5 million or \$7 million, whatever it is, that's going to be the net cost to the state ultimately. But the...we get that additional revenue by the court costs, which I think is an inappropriate way to use court costs, to say, okay, here's another program; let's just charge the filers more money to do this. So another matter that I'm concerned about is the general expression that this is going to save the counties money. Why are the county commissioners upset about this? Why are they concerned? Because in over a third of the counties, they don't see that they're going to save any money; they think they're going to lose money. So maybe it will benefit some of the bigger counties, but it isn't going to benefit the smaller counties. And so not all things are created equal. I said before, I think really, if we're going to do this effectively, we ought to have a longer-range program. When we've got 93 counties, we're never going to have an efficient system. We can call it efficient, but it isn't going to be efficient. Probably we need to be directing ourselves more towards consolidation of services. And it can be done now. We are beyond the point where we're a horseback ride from the county seat. We now have mail, we now have e-mails, we have all kinds of things that we can be doing by way of filing. But I would think a more appropriate way to be addressing this issue would be to change our constitution. If we don't need...we don't need 93 counties. We all know that. But we also don't need a clerk of the district court in each county. In many of those counties, they don't have all that many filings. They have like ten or five a year. So, but we still have a clerk of the district court. But what I think we really ought to be

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aiming for is probably a district clerk of the district court, rather than a county clerk of the district court. And I think that that would create much more efficiency. I know that perhaps attorneys in the outlying areas wouldn't think it was a good idea. But let me give you an example. In my district of the Supreme Court, as divided, we have District 11. And North Platte has two judges in that district, Lexington has one, and McCook has one. So there are four district judges in the 11th District. Those are the stars that Senator Beutler has on his chart. So we don't have a court where there's a judge, necessarily. I mean, that's not the reason. We have a court where there is a county, and these judges go out to those various counties, or, in generally speaking now, those people come back in to one of the more metropolitan areas and have their cases heard, because the counties...the smaller counties...

SENATOR CUDABACK: One minute.

SENATOR D. PEDERSON: ...don't like to have a bunch of juries. It's very expensive. They don't even have facilities in...I tried a case myself down in Frontier County, and it was very interesting, because we had the trial taking place in the courthouse; we, meaning the attorneys on both sides, the jury, and the witnesses, all went over to the Methodist Church and had lunch. I mean, that's the way it is in these smaller counties. So I'm concerned that in the long run, it's a good system. We don't have a bad system right now, frankly. I mean, the job gets done. But I think that there's always this level of wanting to consolidate services. I think if we did this in a more cohesive manner, where we actually consolidated some of these services into an effective unit, this is the way we're going to have to ultimately go in this state. And I think...

SENATOR CUDABACK: Time, Senator.

SENATOR D. PEDERSON: ...to sign on for each county is a mistake. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. Further discussion, AM1795, Senator McDonald, followed by Senator

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Synowiecki and others.

SENATOR McDONALD: Mr. President, members of the body, I am standing in opposition to LB 529. I've heard from many of my counties, and they are not in support of consolidating. And many times, as we've seen before...one of my counties, Sherman County, wes...had given up their assessor's office there at the county, and it cost the state almost twice to pay for those services than it did for the county. And the state finally realized, we can't afford this. We can't afford to teke any more assessor positions away from the counties. Is that going to happen to this situation? Are we going to, as a state, make government bigger at the state level and meke government less at the county level? And that is the reeson I'm opposed to this. But I do have some questions about...to Senator Flood, concerning his amendment.

SENATOR CUDABACK: Senator Flood, would you,...

SENATOR McDONALD: Would he yield some time?

SENATOR CUDABACK: Would you yield, Senator Flood?

SENATOR FLOOD: Yes, Mr. President.

SENATOR McDONALD: Senator Flood, would you tell me exactly how your amendment works?

SENATOR FLOOD: Thank you, Senator McDonald. My amendment essentially requires that a district court clerk be certified by the Supreme Court after the Supreme Court has had a chance to develop a course, and more specifically, to adopt rules that the district court clerks must follow; and also that a candidate for election of the district court clerk position shall also have passed and complete the training requirements as adopted and promulgated by the Supreme Court; and that if such district court clerk that is elected essentially breaks the rules of the Supreme Court, that he or she mey...that the Supreme Court may, on its own motion, revoke the certificate of that district court clerk for essentially violating the rules the Supreme Court has set forth to make everything uniform and to make everything

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work.

SENATOR McDONALD: So in other words, basically it takes care of those that are not, so to speak, bad actors, are not doing what they need to do. It takes care of that inaccuracy?

SENATOR FLOOD: Yeah. As I understand it,...and certainly, in my area, our district court clerks do a wonderful job, and I believe the judges are very pleased with the relationship they have. But as I talk to folks around the state, it seems that there may be one or two or three district court clerks that are not in line with where the Supreme Court wants the district courts to be going. And this would give the highest court the ability to pull their ticket if they don't follow the rules, and to say to the county voters of whatever county, you know, we have revoked the license of this individual serving as your district court clerk; now the county board must appoint somebody that also meets the qualifications, and at the next election you must have candidates that meet our requirements to at least run, and then follow our rules if they want to keep the job.

SENATOR McDONALD: So in listening to that, if the real issue is taking care of those counties that are not responding correctly to their position, then this would clarify that that would take care of their problem. And so the...if we're dealing with just that part of it, Senator Flood's amendment takes care of that problem. If this is another attempt to take away local control, then if that's the bottom line behind the bill, then that's what's happening. But if we adopt Senator Flood's amendment, which is taking away those few counties that are not doing what they need to do in this position, we've solved the problem. So I recommend that we pass Senator Flood's amendment. And if we don't do that, we need to vote against the bill. Thank you.

SENATOR CUDABACK: Thank you, Senator McDonald. On with discussion. Senator Synowiecki, followed by Senator Stuthman.

SENATOR SYNOWIECKI: Thank you. Thank you, Senator Cudaback and members. Senator Beutler, would you yield to question, please? Senator Beutler, I have questions relative to the court fees. And if I'm understanding the bill as it's written currently, the

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court fees will increase by a level of \$5; three of the dollars within the increase will go to the Commission on Public Advocacy operations cash fund. I'm trying to determine what is the logical connection between what your bill intends to do and its nexus with the activities of the Nebraska Commission on Public Advocacy.

SENATOR BEUTLER: Senator, I think it's fundamentally this. I wanted to be sure, and I am sure, that no county is going to lose money because of this transition. Every county will have some savings in some amount. To be sure that that's true, I also wanted to provide what I think is needed relief to the counties in terms of their indigent defense fund. I mean, that is...that...if that money is not there, as you well know, the counties have to pay for indigent defense. And so the nexus is my desire to be sure that the counties suffer no harm, and that in fact they're benefited by this. But as Senator Flood has pointed out, there's somehow this totally illogical reversal of positions here. The counties have come to us time and time again about state aid and relief and they need to have more money to spend. And now they have a bunch more money to spend, and they're complaining. You know, I don't know how you can have it both ways.

SENATOR SYNOWIECKI: Well, I understand your position. My concern, Senator Beutler, is, we currently have the Supreme Court employee education fund, which is funded with a \$1 fee on all court cases, as you know. And I have become aware of the demonstrated deficiency that currently exists within that fund. And then your bill seeks to envelope a lot more employees under the Supreme Court umbrella in terms of their employment status. I think we'll have a huge...we have a current deficiency now within the Supreme Court employee education fund. I think if we move with LB 529 and we don't pay particular attention to that education fund, and I think there can be some viable arguments made that an increase and enhancement in that fund will be needed as a result of LB 529. I was just...I would be interested to hear, Senator Beutler, your position or your response to the possibility of an offset off the public advocacy operations. While I support your intent and what you're doing, I support the Commission on Public Advocacy, I do think, though,

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we have a very weighty element here, a very demonstrated deficiency in the educational fund. I mean, after all, these employees will have to be trained on state protocols, state procedures, state rules and regulations in terms of the Supreme Court employee personnel book, and all facets of their job. And I was just wondering, and I'm curious to see if you're open to the possibility of evaluating that Supreme Court employee education fund. And Senator Beutler, I would give you the balance of my time.

SENATOR CUDABACK: Senator Beutler, one minute.

SENATOR BEUTLER: Senator Synowiecki, I think that's a fair question, and I think that you've identified an area where...that needs more funding. You and I have served together on the Appropriations Committee sometime now, and we're aware of many situations that probably could use additional funding. This bill does provide some more training money. It's probably...it's not going to be enough. I think your concern primarily is with some of the...is with improving the probation side of the court operation, and you've done great things so far in moving in that direction and putting money into that. And I'm sure it does need more training funds. And as I've indicated to you earlier, from our discussions on some other bills, I'm very willing to look at that and to be of assistance on that. And how this bill is funded, if people don't want to use fees,...

SENATOR CUDABACK: Time, Senator Beutler.

SENATOR BEUTLER: ...if they're...

SENATOR CUDABACK: Thank you. And thank you, Senator Synowiecki. Senator Stuthman.

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I really enjoy the efforts of a lot of the senators here this morning in getting involved in the discussion, but I think there's one thing that we really, realistically got to take a look at, is, you know, what has happened in the past with county offices, such as the assessor's office that was taken over by

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the state for...you know, several counties did that. And their intent was to, you know, take them all over, in time. But things kind of fell apart financially, and the state couldn't do it. I think we need to examine, you know, what happened, why the state wanted to take them over, or was it a request of some counties to take them over, and you know, and why did it fall apart, why wasn't it continued. And I think the reason why it wasn't continued is because of the expense, didn't have the money. Will this happen again? Yes, probably will. I don't know whether we should just take, you know, the small counties over first and leave it till the large counties would be the last. Or should it be in the reverse, start with the large counties, see whether you can handle it financially? Maybe at that time you will realize that maybe that was not the right way to go. Or there's a possibility that is the right thing to do. But I think there's one thing that enters my mind, when the county assessor's office were taken over, and why some of the counties wanted the state to take over on that. I think that came because of the problems that counties had with the direction given by the state as far as valuations were concerned, and the protests on their valuations and their values. I think some of the counties felt that they really wouldn't have to go through with all that stuff, that the state would take over, they would mandate down the values of it, and they would be relieved of those duties. Well, that realistically didn't happen. The state still directs the valuations of the property, but the counties still do the work. So I think we need to take a long, hard look at, you know, what should we be doing. I think we...I think there is a lot of merit in combining offices because of technology now. The thing that also concerns me is, you know, part of this portion is going to be an increase in the fees. You know, is that the right way to go? Should the people that are least able to pay have to pay for it? Maybe yes, because they're the ones that are affected. I don't think we should make a hasty decision on this this morning, and I know we won't, because I think we've utilized about enough time this morning to carry this on into another date, and maybe another date. So I think...I'm very happy with the conversation and the discussion this morning, but I think we need to really take a look at where are we going with this. Thank you.

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 LR 286

SENATOR CUDABACK: Thank you, Senator Stuthman. Mr. Clerk, items for the record, please.

CLERK: Mr. President, your Committee on Banking, Commerce and Insurance reports LB 876 to General File with amendments, that report signed by Senator Mines. Senator Don Pederson offers LR 286, Mr. President. That will be laid over. Senator Chambers, amendments to be printed to LB 87; Senator Flood to LB 529. (Legislative Journal pages 478-485.)

Priority motion. Senator Schimek would move to adjourn until Monday morning, January 30, at 10:00 a.m.

SENATOR CUDABACK: You've heard the motion to adjourn until the 30th, 10:00 a.m., by Senator Schimek. All in favor say aye. All opposed, nay. We are adjourned. Members, have a nice weekend, and others also.

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